

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 - - -

5 IN RE: NATIONAL PRESCRIPTION  
6 OPIATE LITIGATION

Case No.

7 1:17-MD-2804

8 APPLIES TO ALL CASES

Hon. Dan A.

9 Polster

10 Case No. 1:17-MD-2804

11 - - -

12 January 9, 2019

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
14 CONFIDENTIALITY REVIEW

15 Videotaped deposition of

16 SOPHIA NOVACK, held at 101 Park Avenue,

17 New York, New York, commencing at 9:37 a.m.,

18 on the above date, before Marie Foley, a

19 Registered Merit Reporter, Certified

20 Realtime Reporter and Notary Public.

21 - - -

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5 Rite Aid - LinkedIn page for Sophia 21  
6 Novack Novack  
7 Exhibit 1  
8 Rite Aid - Corporate Loss Prevention 51  
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15 Rite\_Aid\_OMDL\_0044732 to  
16 Rite\_Aid\_OMDL\_0044733  
17 Rite Aid - E-mail dated January 25, 79  
18 Novack 2012, with attachment,  
19 Exhibit 4 Bates No.  
20 Rite\_Aid\_OMDL\_037355 to  
21 Rite\_Aid\_OMDL\_037371  
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5 Rite Aid - Email chain ending 137  
6 Novack November 10, 2012, with  
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8 Rite\_Aid\_OMDL\_00029787 to  
9 Rite\_Aid\_OMDL\_00029954  
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11 Novack September 16, 2011, Bates  
12 Exhibit 6 No. MCK\_MDL\_00632923 to  
13 MCK\_MDL\_00632925  
14 Rite Aid - Pleading in Case No. 202  
15 Novack 5-14CR096  
16 Exhibit 7  
17 Rite Aid - Press release dated 209  
18 Novack October 20, 2014  
19 Exhibit 8  
20 Rite Aid - Cleveland.com article 211  
21 Novack dated February 13, 2015  
22 Exhibit 9  
23  
24

<p style="text-align: right;">Page 10</p> <p>1               - - -</p> <p>2               E X H I B I T S</p> <p>3               - - -</p> <p>4       NO.       DESCRIPTION               PAGE</p> <p>5   Rite Aid - Email chain ending       217</p> <p>6   Novack     December 19, 2012, Bates</p> <p>7   Exhibit 10 No. MCK_MDL_00571625 to</p> <p>8               MCK_MDL_00571628</p> <p>9   Rite Aid - Email chain ending       231</p> <p>10   Novack    February 21, 2014, Bates</p> <p>11   Exhibit 11 No. MCK_MDL_00547503 to</p> <p>12              MCK_MDL_00547510</p> <p>13   Rite Aid - Email chain ending October   257</p> <p>14   Novack    7, 2017, Bates No.</p> <p>15   Exhibit 12 MCK_MDL_00633242</p> <p>16   Rite Aid - Email chain ending August   267</p> <p>17   Novack    27, 2014, Bates No.</p> <p>18   Exhibit 13 MCK_MDL_00627585 to</p> <p>19              MCK_MDL_00627587</p> <p>20   Rite Aid - Email chain ending August   286</p> <p>21   Novack    27, 2014, Bates No.</p> <p>22   Exhibit 14 Rite_Aid_OMDL_0030479 to</p> <p>23              Rite_Aid_OMDL_0030684</p> <p>24</p>	<p style="text-align: right;">Page 12</p> <p>1   DEPOSITION SUPPORT INDEX</p> <p>2</p> <p>3   DIRECTION TO WITNESS NOT TO ANSWER</p> <p>4   Page   Line</p> <p>5   19   15</p> <p>6</p> <p>7</p> <p>8   REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>9   Page   Line</p> <p>10   - -none- -</p> <p>11</p> <p>12</p> <p>13   STIPULATIONS</p> <p>14   Page   Line</p> <p>15   - -none- -</p> <p>16</p> <p>17</p> <p>18   QUESTIONS MARKED</p> <p>19   Page   Line</p> <p>20   - -none- -</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 11</p> <p>1               - - -</p> <p>2               E X H I B I T S</p> <p>3               - - -</p> <p>4       NO.       DESCRIPTION               PAGE</p> <p>5   Rite Aid - Email chain ending August   316</p> <p>6   Novack    28, 2014, Bates No.</p> <p>7   Exhibit 15 MCK_MDL_00630329 to</p> <p>8              MCK_MDL_00630330</p> <p>9   Rite Aid - Email chain ending June     333</p> <p>10   Novack    17, 2013, Bates No.</p> <p>11   Exhibit 16 Rite_Aid_OMDL_003075 to</p> <p>12              Rite_Aid_OMDL_003077</p> <p>13   Rite Aid - Email chain ending October   349</p> <p>14   Novack    9, 2013, Bates No.</p> <p>15   Exhibit 17 Rite_Aid_OMDL_0050291 to</p> <p>16              Rite_Aid_OMDL_0050306</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 13</p> <p>1               - - -</p> <p>2               9:37 a.m.</p> <p>3               New York, New York</p> <p>4               - - -</p> <p>5               THE VIDEOGRAPHER: We are now on</p> <p>6   the record.</p> <p>7               My name is Ray Moore. I am a</p> <p>8   videographer for Golkow Litigation</p> <p>9   Services.</p> <p>10              Today's date is January 9th,</p> <p>11   2019, and the time is 9:37 a.m.</p> <p>12              This video deposition is being</p> <p>13   held in New York, New York in the</p> <p>14   matter In Re: National Prescription</p> <p>15   Opiate Litigation, for the United</p> <p>16   States District Court for the Northern</p> <p>17   District of Ohio, Eastern Division,</p> <p>18   MDL Number 2804.</p> <p>19              The deponent is Sophia Novack.</p> <p>20              Counsel will be noted on the</p> <p>21   stenographic record.</p> <p>22              The court reporter is Marie</p> <p>23   Foley, and will now swear in the</p> <p>24   witness.</p>

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1               - - -  
2 SOPHIA NOVACK, the Witness herein, having  
3     been first duly sworn by a Notary  
4     Public in and of the State of New  
5     York, was examined and testified as  
6     follows:  
7 EXAMINATION BY  
8 MR. SIMMER:  
9     Q.   Good morning, ma'am. My name is  
10    Scott Simmer. I'm here on behalf of the  
11    plaintiffs in the -- this litigation from  
12    Baron and Budd.  
13           Have you been deposed before?  
14    A.   No.  
15    Q.   Okay. I expect your counsel or  
16    the counsel sitting next to you has talked  
17    to you about this as well. I may go  
18    through some of the ground rules.  
19           I'm going to be asking you a  
20    series of questions. The court reporter  
21    is taking down verbatim what we each say.  
22    For that reason, it's important that we do  
23    not talk over each other. She can only  
24    take down one speaker at a time.

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1           Is that fair?  
2    A.   Yes.  
3    Q.   And, for that reason too, you  
4    must answer verbally. You can't just nod  
5    your head. She can't take down a nod of  
6    the head. So you have to answer verbally.  
7           Do you understand?  
8    A.   Yes.  
9    Q.   You also have to answer fully  
10   and accurately and verbally.  
11           You understand?  
12   A.   Yes.  
13   Q.   If you don't understand a  
14   question, please say so and I'll try to  
15   rephrase it. Otherwise, I can -- I will  
16   assume that you understood what I'm  
17   asking.  
18           Is that fair?  
19   A.   Yes.  
20   Q.   You understand that you must  
21   answer truthfully, correct?  
22   A.   Yes.  
23   Q.   You can request a break at any  
24   time. My only request is that if there's

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1 a question pending, you have to answer it  
2 before we take a break.  
3           You understand?  
4   A.   Yes.  
5           MR. LAVELLE: The witness  
6   reserves the right to consult with  
7   counsel on issues of privilege.  
8 BY MR. SIMMER:  
9   Q.   Just as happened just now with  
10   Mr. Lavelle, from time to time, the  
11   attorneys will lodge objections. You are  
12   still expected to answer unless counsel  
13   directs you not to answer.  
14           Do you understand?  
15   A.   Yes.  
16   Q.   And, do you understand these  
17   procedures?  
18   A.   Yes.  
19   Q.   Is there any reason why you  
20   cannot testify truthfully and accurately  
21   today?  
22   A.   No.  
23   Q.   You're not taking any medication  
24   of any kind that would interfere with your

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1 ability to answer truthfully?  
2   A.   No.  
3   Q.   There's counsel sitting next to  
4   you.  
5           Did you retain this -- Morgan  
6   Lewis to defend you in this deposition?  
7   A.   Yes.  
8   Q.   Are you paying for your counsel  
9   today?  
10   A.   No.  
11   Q.   Who's paying for your counsel  
12   today?  
13   A.   Rite Aid headquarters.  
14   Q.   What's your understanding of why  
15   you are here today?  
16   A.   Involvement in lit -- opioid  
17   litigations.  
18   Q.   I can tell right away I'm going  
19   to have to ask you to speak up a bit. I'm  
20   a little hard of hearing, so.  
21   A.   Okay.  
22   Q.   Thank you.  
23           Did you meet with attorneys  
24   representing the company in preparation

<p style="text-align: right;">Page 18</p> <p>1 for your testimony?</p> <p>2 A. Yes.</p> <p>3 Q. Who did you meet with?</p> <p>4 A. I met with John, Kelly and</p> <p>5 Carolyn.</p> <p>6 Q. And when did you meet with them?</p> <p>7 A. The last couple of days.</p> <p>8 Q. How long did you meet with them?</p> <p>9 A. For couple hours over three</p> <p>10 days.</p> <p>11 Q. Couple?</p> <p>12 A. Couple of hours over three days.</p> <p>13 Q. Did they show you any documents?</p> <p>14 A. Yes.</p> <p>15 Q. How many?</p> <p>16 A. A binder full.</p> <p>17 Q. What kind of documents, just</p> <p>18 generally?</p> <p>19 A. Communications that I've had,</p> <p>20 training documents that we've done.</p> <p>21 Q. I asked you a moment ago, but</p> <p>22 I'm going to ask you again just to</p> <p>23 clarify.</p> <p>24 Have you been involved in</p>	<p style="text-align: right;">Page 20</p> <p>1 disclosure of attorney/client</p> <p>2 communications.</p> <p>3 BY MR. SIMMER:</p> <p>4 Q. There's nothing privileged about</p> <p>5 whether -- a yes-or-no question whether</p> <p>6 you asked -- they asked you to produce</p> <p>7 documents.</p> <p>8 A. No.</p> <p>9 Q. Did they ask you to produce any</p> <p>10 hard copy files you had in your</p> <p>11 possession?</p> <p>12 MR. LAVELLE: Objection.</p> <p>13 Direct the witness not to answer</p> <p>14 to the extent it would require</p> <p>15 disclosure of attorney/client</p> <p>16 communications.</p> <p>17 A. No.</p> <p>18 Q. Do you have any hard copy files</p> <p>19 or electronic files from your time at</p> <p>20 Rite Aid in your possession?</p> <p>21 A. No.</p> <p>22 Q. Nothing on a computer or</p> <p>23 anywhere from your time at Rite Aid?</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 19</p> <p>1 litigation of any kind before?</p> <p>2 A. No.</p> <p>3 Q. Not as a party?</p> <p>4 A. No.</p> <p>5 Q. Not as a witness?</p> <p>6 A. No.</p> <p>7 Q. Have you ever testified before</p> <p>8 in a deposition?</p> <p>9 A. No.</p> <p>10 Q. In preparation for your</p> <p>11 testimony the counsel got in touch with</p> <p>12 you, did they ask you to produce to them</p> <p>13 any documents you had in your possession?</p> <p>14 MR. LAVELLE: Objection.</p> <p>15 Direct the witness not to answer</p> <p>16 to the extent it will require</p> <p>17 disclosure of attorney/client</p> <p>18 communications.</p> <p>19 BY MR. SIMMER:</p> <p>20 Q. Did they ask you to produce</p> <p>21 documents in your possession?</p> <p>22 MR. LAVELLE: Same objection.</p> <p>23 Direct the witness not to answer</p> <p>24 to the extent it would require</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. No boxes of documents from your</p> <p>2 time at Rite Aid?</p> <p>3 A. No.</p> <p>4 (Rite Aid - Novack Exhibit 1,</p> <p>5 LinkedIn page for Sophia Novack, was</p> <p>6 marked for identification, as of this</p> <p>7 date.)</p> <p>8 MR. LAVELLE: Counsel, what are</p> <p>9 we labeling this? Is this Novack 1?</p> <p>10 MR. SIMMER: Novack Exhibit 1.</p> <p>11 MR. LAVELLE: Thank you.</p> <p>12 BY MR. SIMMER:</p> <p>13 Q. I handed you what we are marking</p> <p>14 as Novack Exhibit 1, which is your</p> <p>15 LinkedIn page.</p> <p>16 Have you seen -- have you</p> <p>17 prepared that?</p> <p>18 MR. LAVELLE: Object to form.</p> <p>19 BY MR. SIMMER:</p> <p>20 Q. Is the information on the</p> <p>21 LinkedIn page something you prepared?</p> <p>22 A. Yes.</p> <p>23 Q. When he objects to form, you</p> <p>24 still have to answer.</p>

<p style="text-align: right;">Page 22</p> <p>1 You understand?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So, the information is</p> <p>4 information that you put on your LinkedIn</p> <p>5 page, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Let me start with your</p> <p>8 educational background.</p> <p>9 It says here that you went to</p> <p>10 the Arnold Marie Schwartz College of</p> <p>11 Pharmacy.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And what was your year of</p> <p>15 graduation?</p> <p>16 A. 2005.</p> <p>17 Q. Did you have any special area of</p> <p>18 specialization while you -- when you went</p> <p>19 to pharmacy school?</p> <p>20 A. I achieved the doctorate of</p> <p>21 pharmacy and also the university honors</p> <p>22 program.</p> <p>23 Q. My question was somewhat</p> <p>24 different.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Brooklyn, New York.</p> <p>2 Q. And, what were your job</p> <p>3 responsibilities?</p> <p>4 A. Counsel patients and dispense</p> <p>5 medications in the data entry system under</p> <p>6 the supervision of a pharmacist.</p> <p>7 Q. And you worked in an actual</p> <p>8 pharmacy; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. What was the name of the</p> <p>11 pharmacy where you worked?</p> <p>12 A. Rite Aid Pharmacy.</p> <p>13 Q. Is there a number for the</p> <p>14 Rite Aid Pharmacy where you worked?</p> <p>15 A. Yes.</p> <p>16 Q. That's how they keep track of</p> <p>17 them is by a four-digit number, correct?</p> <p>18 A. It was a four-digit number, yes.</p> <p>19 Q. And, what was the number?</p> <p>20 A. I don't recall the number</p> <p>21 exactly.</p> <p>22 It was the location on Seaview</p> <p>23 Avenue in Brooklyn, New York.</p> <p>24 Q. And, how many years did you work</p>
<p style="text-align: right;">Page 23</p> <p>1 I asked you if you had any area</p> <p>2 of specialization in your pharmacy degree.</p> <p>3 MR. LAVELLE: Object to form.</p> <p>4 A. Just pharmacy.</p> <p>5 Q. Okay. And, where did you get</p> <p>6 your undergraduate degree?</p> <p>7 A. Same college, Long Island</p> <p>8 University.</p> <p>9 Q. And you had a pharmacy degree?</p> <p>10 A. I graduated with a doctor of</p> <p>11 pharmacy. It's one program, one degree.</p> <p>12 Q. How many years did you go to</p> <p>13 school there?</p> <p>14 A. Six years.</p> <p>15 Q. And, what was your first job</p> <p>16 post-graduation?</p> <p>17 A. Rite Aid Pharmacy as an intern.</p> <p>18 Q. When you say an intern, is that</p> <p>19 a full-time position?</p> <p>20 A. It was a part-time position.</p> <p>21 Q. Was that a paid position?</p> <p>22 A. It was a paid position.</p> <p>23 Q. What was the geographic location</p> <p>24 where you worked?</p>	<p style="text-align: right;">Page 25</p> <p>1 there as an intern?</p> <p>2 A. I worked there as an intern for</p> <p>3 a couple months.</p> <p>4 Q. And, what was your next</p> <p>5 position?</p> <p>6 A. Pharmacist position.</p> <p>7 Q. At the same pharmacy?</p> <p>8 A. At a different location in</p> <p>9 Brooklyn, New York.</p> <p>10 Q. And, what was the location for</p> <p>11 that pharmacy?</p> <p>12 A. It was in -- on Pennsylvania</p> <p>13 Avenue in Brooklyn, New York.</p> <p>14 Q. And, what were your</p> <p>15 responsibilities?</p> <p>16 A. Dispense medications to</p> <p>17 patients, counsel and make sure that they</p> <p>18 understood what the medications were for.</p> <p>19 Q. What hours did you work, if you</p> <p>20 recall?</p> <p>21 A. Usually an eight-hour shift</p> <p>22 during the week and rotating weekends.</p> <p>23 Q. This was a full-time position</p> <p>24 this time?</p>



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1 A. Full-time position.  
2 Q. And, how long did you work in  
3 this position in Brooklyn?  
4 A. I was in that position for about  
5 a year, and then I became a pharmacy  
6 manager.  
7 Q. And a pharmacy manager is of a  
8 specific pharmacy; is that correct?  
9 A. Yes.  
10 Q. And, what pharmacy were you the  
11 manager for?  
12 A. A pharmacy in Jackson Heights,  
13 New York.  
14 Q. What are the responsibilities of  
15 a pharmacy manager?  
16 A. Same as the pharmacist, except  
17 oversee the operations of the pharmacy  
18 along with the personnel.  
19 Q. So, when you say you oversee the  
20 operations of the pharmacy, what did you  
21 do for that?  
22 A. Insure that we were operating  
23 within regulatory compliance, be ready for  
24 any type of inspection, and we had direct

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1 P&L responsibility.  
2 Q. What training did you receive in  
3 regulatory compliance in order to fulfill  
4 that function?  
5 A. We had training from our  
6 pharmacy district manager. We had various  
7 computer-based training, and there were a  
8 lot of job aids and help guides that were  
9 on our Rite Aid portal for resources.  
10 Q. Did you receive any kind of  
11 certification of any kind for your  
12 compliance?  
13 A. Did not receive any, no.  
14 Q. Did you take any kind of exams  
15 in order to, you know, make sure that you  
16 understood the content of the compliance  
17 training you received?  
18 MR. LAVELLE: Object to form.  
19 A. There were questions that you  
20 had to pass at the end of the e-learnings.  
21 Q. Did you have to answer a certain  
22 percentage of the questions correctly  
23 before you could continue on?  
24 A. Yes.

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1 Q. Do you recall what percentage  
2 you had to answer correctly?  
3 A. I don't recall the passing rate.  
4 Q. When you say compliant --  
5 "regulatory compliance," what did that  
6 entail?  
7 A. Entailed following DEA  
8 regulations, recordkeeping, following our  
9 dispensing regulations and if we had any  
10 inspections that were coming into the  
11 door. Basically making sure that we were  
12 following policies and procedures.  
13 Q. You also said as manager you had  
14 to be ready for any type of inspection.  
15 What kind of inspections were  
16 you talking about?  
17 A. From any outside agency or  
18 internal agency. We have our internal  
19 audits that come in to do compliance  
20 checks too.  
21 Q. What outside agencies are you  
22 talking about?  
23 A. Anyone that could regulate us,  
24 whether it's a fire inspection, whether

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1 it's a DEA, whether it's the Board of  
2 Pharmacy, whether it's a third-party  
3 audit.  
4 Q. And you also said that as a  
5 manager of this pharmacy, you had direct  
6 P&L responsibility.  
7 What is that?  
8 A. The profit and loss statement.  
9 Q. I understand. But, what does  
10 that include?  
11 A. The overall operations of the  
12 store from sales to gross profit to what  
13 our losses, our expenses are, and at the  
14 end of the day, what the bottom line is.  
15 Q. So, am I right you had a  
16 responsibility to make sure the pharmacy  
17 was profitable?  
18 MR. LAVELLE: Object to form.  
19 A. We had responsibility to make  
20 sure that we were operating the store as  
21 best as we can.  
22 Q. Just as best you could. Is that  
23 the only expectation the company had?  
24 MR. LAVELLE: Object to form.



<p style="text-align: right;">Page 30</p> <p>1 A. The expectation was to control          2 what we can control.          3 Q. To control what you can control.          4 I don't have any idea what you just said.          5 What does that mean?          6 MR. LAVELLE: Object to form.          7 A. To control our expense lines          8 that we directly have impact over, making          9 sure that we're not over-ordering to          10 create overstock or ultimately damages          11 that will decrease our line, making sure          12 that we're protecting our assets inside          13 the pharmacy, managing our supply,          14 managing our payroll, managing the things          15 that we can control.          16 Q. Did you in turn train the others          17 working in the pharmacy with you?          18 A. Yes.          19 Q. What kind of training did you          20 give them?          21 A. On-the-job training in          22 conjunction with their CBTs and their          23 e-learnings that download throughout the          24 course of their time.</p>	<p style="text-align: right;">Page 32</p> <p>1 store, the non-pharmaceutical items, did          2 you have any responsibility for those?          3 A. No.          4 Q. So your only job was to manage          5 what was back in the pharm -- the          6 prescription pharmacy section of the          7 store, correct?          8 A. Yes.          9 Q. And your P&amp;L responsibilities          10 were only for the prescription drug part          11 of the pharmacy, correct?          12 A. We were tied to the whole store,          13 but my contributions would have been the          14 pharmacy side.          15 Q. Okay. You said you were          16 district manager for this store --          17 MR. SIMMER: Strike that.          18 Q. You were the manager for this          19 store for how long?          20 A. About a year.          21 Q. Until when?          22 A. Until some time the next year,          23 February. I was promoted to a different          24 position.</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. What is CBT?          2 A. Computer-based training.          3 Q. And e-learnings, what is that?          4 A. It's the same thing. It's all          5 electronic learnings.          6 Q. So, they had computer-based          7 training and e-learnings and you trained          8 them in addition to that.          9 Is that -- do I have it right?          10 MR. LAVELLE: Object to form.          11 A. There are training guides that          12 are available that we go through with them          13 manually that we check off as they, go          14 depending on their job role.          15 Q. How many people did you have          16 that you were supervising as manager of          17 the pharmacy?          18 A. In that particular location, a          19 staff pharmacist and a -- one associate.          20 It was a new store.          21 Q. And the associate, is that a          22 pharmacy tech?          23 A. That was a pharmacy tech.          24 Q. What about the front of the</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. February of what year?          2 A. February of 2007.          3 Q. And you were promoted to what          4 position?          5 A. A pharmacy district manager.          6 Q. And, what are the          7 responsibilities a pharmacy district          8 manager?          9 A. To oversee the multi unit          10 pharmacies within that area.          11 Q. Okay. Now, if you could look at          12 Novack Exhibit 1. I think that's what's          13 reflected on your LinkedIn page.          14 Correct?          15 A. Yes.          16 Q. And it says you had that          17 position from February 2007 to August          18 2011.          19 Do I have that right?          20 A. Yes.          21 Q. Okay. And, where were you          22 physically working out of?          23 A. The Queens, Long Island district          24 and then parts of Brooklyn. It was</p>

<p style="text-align: right;">Page 34</p> <p>1 throughout the entire time we had                  2 different parts of the metro New York                  3 area.                  4 Q. How many pharmacies were you                  5 responsible for?                  6 A. It ranged throughout the                  7 districts, either from 18 to about 23                  8 stores.                  9 Q. When I asked you what your                  10 responsibilities were, you said you were                  11 to oversee the multi unit pharmacies.                  12 What's a multi unit pharmacy?                  13 A. Not just one location. Like in                  14 the pharmacy manager, I was responsible                  15 for one location. As a pharmacy district                  16 manager, I was responsible for multiple                  17 locations.                  18 Q. So, as a district manager, do                  19 you go out and visit the -- each pharmacy                  20 to make sure that they're doing what the                  21 expect -- the company expects them to do?                  22 A. We go out, yes.                  23 Q. What else do you do in terms of                  24 making sure that they're following the</p>	<p style="text-align: right;">Page 36</p> <p>1 compliance overall.                  2 Q. You said you also had a DEA                  3 checklist.                  4 Is that a checklist that the DEA                  5 prepared?                  6 A. It's an internal checklist that                  7 we prepared as a corporation.                  8 Q. That somehow then reflects DEA                  9 regulations?                  10 A. It gives us things that we want                  11 to review in the store to make sure that                  12 we are compliant with our policies and                  13 procedures and regulations.                  14 Q. You also said that you did                  15 training and mentorship for your pharmacy                  16 managers, correct?                  17 A. Yes.                  18 Q. And, what did that entail?                  19 A. It entailed anything that they                  20 needed from completing their job duties as                  21 a pharmacy manager, questions about                  22 operations, questions related to a policy                  23 and procedure, just going through our                  24 systems and how to use and operate those.</p>
<p style="text-align: right;">Page 35</p> <p>1 company's directives?                  2 A. We review with the store teams.                  3 We conduct visits to do multiple                  4 compliance checks. We do training and                  5 mentorship for our pharmacy managers so                  6 that they can operate, help them                  7 understand some of the policies and                  8 procedures that we have and understand                  9 overall pharmacy and providing care for                  10 patients.                  11 Q. You said you do multiple                  12 compliance checks.                  13 What did that entail?                  14 A. We have a quarterly store visit                  15 guide that we would do for our pharmacy.                  16 We had a DEA checklist that we would do                  17 annually for our pharmacies.                  18 Q. A quarterly store visit guide,                  19 is that an actual physical manual of some                  20 kind?                  21 A. It's a checklist.                  22 Q. A checklist of what items?                  23 A. Multitude of items that go over                  24 from service to the business to just</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. This is in addition to the                  2 online training you referred to earlier?                  3 A. Yes.                  4 Q. So, how did you know what you                  5 were supposed to be training these people                  6 about? Did you have materials that you                  7 were provided for that purpose?                  8 MR. LAVELLE: Object to form.                  9 A. It would be questions that the                  10 teams would ask while we're there. As we                  11 do these audits, if there are any                  12 deficiencies or any opportunities, we                  13 would know that there may be a training                  14 gap and we would fill in that information.                  15 Q. So, you simply would respond to                  16 the questions that arose during the audit                  17 and that's the kind of training you                  18 provided?                  19 MR. LAVELLE: Object to form.                  20 A. That's not what I'm saying.                  21 I'm saying that we go and                  22 reinforce some things that we may identify                  23 that are deficiencies to understand if                  24 it's just a performance issue or if it's a</p>

<p style="text-align: right;">Page 38</p> <p>1 knowledge issue, but we do have structured          2 training guides as we onboard a new          3 pharmacist, and we have different things          4 as programs roll out just to make sure          5 that they understand the different pieces          6 of that program.          7 Q. So, how long -- you said -- I          8 think it says in here you were a district          9 manager for a little over four years.          10 Is that right?          11 A. Yes.          12 Q. Did the DEA audit any of your          13 pharmacies during this time period?          14 A. No.          15 Q. Did the company audit any of          16 your pharmacies during this time period?          17 A. We do internal audits all the          18 time throughout the year.          19 Q. So you as a district manager did          20 the audit; is that right?          21 A. I did the audit as a district          22 manager. There's another department, the          23 Asset Protection Department also does          24 audits. We have an Internal Assurance</p>	<p style="text-align: right;">Page 40</p> <p>1 districts that I had. So, it ranged from          2 anywhere from 18 up to over in the 20s.          3 Q. 18 to 20, correct?          4 A. Depending on the district. So,          5 the districts were 15 stores. As we          6 restructured, we went to another district.          7 So it can vary in store count.          8 Q. So, I don't -- I don't quite          9 follow.          10 You said that districts were 15          11 stores, but you were responsible for 18 to          12 20.          13 What's the reason for the          14 variance there?          15 MR. LAVELLE: Object to form.          16 A. Depending on the -- over the          17 four years, we covered different          18 districts. So, my first district was 18          19 stores. My second district was 20          20 some-odd stores. My third district was in          21 that range. So it's anywhere from a range          22 of that district depending on the size.          23 Q. And, how often were you to audit          24 the pharmacies that you were responsible</p>
<p style="text-align: right;">Page 39</p> <p>1 Department that also comes in and does          2 audits.          3 Q. Well, let's go through that.          4 So, you said that you did          5 audits, right?          6 A. That's correct.          7 Q. During that four-year time          8 period, how many audits of pharmacies did          9 you do?          10 A. I couldn't give you an exact          11 number.          12 Q. More than ten?          13 A. More than ten.          14 Q. More than 50?          15 A. I couldn't tell you.          16 Q. Approximately how many?          17 MR. LAVELLE: Objection; asked          18 and answered.          19 A. I don't know if I can give you a          20 concrete number. It was something that we          21 did routinely.          22 Q. How many pharmacies did you --          23 were you responsible for?          24 A. Depends on the time in the</p>	<p style="text-align: right;">Page 41</p> <p>1 for?          2 A. We had quarterly audits.          3 Q. And, tell us everything you did          4 in an audit of a pharmacy.          5 MR. LAVELLE: Object to form.          6 A. We would review the questions on          7 the checklist and we'd insure compliance.          8 We rated it depending on whether they were          9 compliant or not.          10 Q. What are the questions on a          11 checklist? What's that reference to?          12 MR. LAVELLE: Object to form.          13 A. As I mentioned before, it          14 referenced business, service and some          15 compliance and profitability pieces.          16 Q. Focusing on the compliance part          17 of that, what were the compliance areas          18 that you were to audit of your stores?          19 A. Overall recordkeeping, making          20 sure that we were processing recalls, they          21 were doing their damages and outdates,          22 making sure that they were completing the          23 transfer paperwork correctly, making sure          24 that our files were filed correctly, et</p>

<p style="text-align: right;">Page 42</p> <p>1 cetera.</p> <p>2 Q. Did you audit for suspicious</p> <p>3 orders, or suspicious prescriptions, I</p> <p>4 mean?</p> <p>5 MR. LAVELLE: Object to form.</p> <p>6 A. We audited hard copy</p> <p>7 prescriptions. We audited to make sure</p> <p>8 that we had controls in place where we</p> <p>9 were locking the safe. We audited the</p> <p>10 control box. We audited the control</p> <p>11 invoices. So we audited a lot of</p> <p>12 different things in relation to ordering.</p> <p>13 Q. You said there was another</p> <p>14 department, the Asset Protection</p> <p>15 Department, that also did audits.</p> <p>16 What did that department do?</p> <p>17 MR. LAVELLE: Object to form.</p> <p>18 A. The Asset Protection Department</p> <p>19 basically had their audits that were</p> <p>20 either dictated by the Internal Assurance</p> <p>21 Department, or they came in to do their</p> <p>22 checklist that was related to compliance,</p> <p>23 risk and loss.</p> <p>24 Q. You really haven't answered my</p>	<p style="text-align: right;">Page 44</p> <p>1 didn't do all of these together; they only</p> <p>2 did one at a time.</p> <p>3 Is that right?</p> <p>4 A. It depended on their audit</p> <p>5 schedule.</p> <p>6 Q. What do you mean by their audit</p> <p>7 schedule?</p> <p>8 A. So, in order to make sure that</p> <p>9 we are completing all different audits and</p> <p>10 making sure that we're doing the right</p> <p>11 audits, it -- they had different audits at</p> <p>12 different times so that we can get to</p> <p>13 every store and that we had it on the</p> <p>14 calendar and that we knew that every store</p> <p>15 was at least routinely audited.</p> <p>16 Q. In advance of asset protection</p> <p>17 coming in and auditing one of your stores,</p> <p>18 did you know they were coming?</p> <p>19 A. No.</p> <p>20 Q. How often did asset protection</p> <p>21 audit your stores?</p> <p>22 MR. LAVELLE: Objection; asked</p> <p>23 and answered.</p> <p>24 A. They do quarterly audits also.</p>
<p style="text-align: right;">Page 43</p> <p>1 question.</p> <p>2 I asked what did they actually</p> <p>3 do in their audit?</p> <p>4 MR. LAVELLE: Object to form.</p> <p>5 A. So, I couldn't tell you because</p> <p>6 that wasn't an audit that I did, but I do</p> <p>7 know that they have a checklist that they</p> <p>8 reviewed when they were in the store</p> <p>9 different ones at different times.</p> <p>10 Q. You later went to work in asset</p> <p>11 protection though, right?</p> <p>12 A. Correct.</p> <p>13 Q. So you don't have any idea what</p> <p>14 the asset protection audits included?</p> <p>15 MR. LAVELLE: Object to form.</p> <p>16 A. The Asset Protection Department</p> <p>17 audits included different ones depending</p> <p>18 on which one. It was about protecting</p> <p>19 their assets, whether it be in the front,</p> <p>20 cash register, point of sale. If it's a</p> <p>21 risk one, it can be different things from</p> <p>22 checking if the back door is locked.</p> <p>23 Q. So, they did -- when asset</p> <p>24 protection came in and did an audit, they</p>	<p style="text-align: right;">Page 45</p> <p>1 So --</p> <p>2 Q. Of every store?</p> <p>3 A. They do quarterly audits for</p> <p>4 visit guides. They have different levels</p> <p>5 for risk. So, they were always in the</p> <p>6 stores.</p> <p>7 Whether they were doing a</p> <p>8 specific audit at which specific time, I</p> <p>9 couldn't tell you.</p> <p>10 Q. And there was a third department</p> <p>11 that you said that did audits as well.</p> <p>12 You called it, I think, the assurance</p> <p>13 department?</p> <p>14 A. The Internal Assurance</p> <p>15 Department.</p> <p>16 Q. And, what were their</p> <p>17 responsibilities?</p> <p>18 A. They -- they went and did a lot</p> <p>19 of the different audits that the asset</p> <p>20 protection did, but they were a --</p> <p>21 basically our internal assurance audit.</p> <p>22 So separate from the field, they did the</p> <p>23 same audits, see if we got the same</p> <p>24 results.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. So, is Asset Protection  2 considered field?  3 A. Asset Protection, yes.  4 Q. And the Internal Assurance  5 Department is not field, right?  6 A. They work for headquarters.  7 Q. So, internal assurance is an  8 audit function that is run out of  9 headquarters, right?  10 A. Yes.  11 Q. And this Asset Protection is not  12 a headquarters operation?  13 A. They are field leaders. They  14 are considered part of the district field  15 team. They do report up to Asset  16 Protection, that reports up to Internal  17 Assurance, but they're one of our field  18 partners.  19 Q. I failed to ask you this  20 earlier, I think, that when you became a  21 district manager, where were you working  22 out of?  23 A. I had initially the Queens, Long  24 Island market, and then I had the Brooklyn</p>	<p style="text-align: right;">Page 48</p> <p>1 different store count. I had Queens, Long  2 Island. Then I had Brooklyn. So those  3 were realignments.  4 Q. And, your -- your LinkedIn page  5 says your next position was as director of  6 pharmacy loss prevention.  7 Is that correct?  8 A. Yes.  9 Q. And it says you had that  10 position from August 2011 to October 2014,  11 correct?  12 A. Yes.  13 Q. Or, so, three years, three  14 months, correct?  15 A. Yes.  16 Q. And it says that you were  17 working out of Camp Hill, Pennsylvania?  18 A. Yes.  19 Q. That's the company's  20 headquarters, right?  21 A. Yes.  22 Q. So that was your physical  23 location where your office was?  24 A. Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 market after that.  2 Q. Okay. But where was your office  3 physically located?  4 A. We had an office in Flushing and  5 we had an office in Brooklyn on Nostrand  6 Avenue.  7 Q. Is that where you worked all  8 four years?  9 A. Most of my work is in the field,  10 meaning we were in stores and in sites.  11 We hardly spent time in the office.  12 Q. Okay. My question was a little  13 bit different.  14 Did, as district manager, did  15 you always work out of that same district  16 that you described?  17 MR. LAVELLE: Object to form.  18 BY MR. SIMMER:  19 Q. In other words, did you get  20 realigned to any other location during  21 that time period?  22 MR. LAVELLE: Same objection.  23 A. I've already said we realigned  24 several times with different markets,</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. What were your responsibilities  2 as director of pharmacy loss prevention?  3 A. To assist the asset protection  4 district managers in training and learning  5 the systems for field investigations. We  6 also worked closely with the different  7 departments in the company to insure  8 compliance and different ways to review  9 analytics so that we can improve our  10 tactics against theft and diversion.  11 Q. So, what is -- what are asset  12 protection district managers doing?  13 A. They are part of the field team.  14 They are district managers that really  15 help us protect our assets in the field.  16 They do shrink investigations. They do  17 drug loss investigations. They do all  18 different types of investigations while  19 they are also helping with maintaining  20 compliance and safety.  21 Q. Just so we're on the same page,  22 when you say that the -- you were to  23 insure compliance in different ways to  24 review analytics so that you could improve</p>



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1 tactics against theft and diversion, what  
2 do you mean by "theft"?  
3 A. Stolen goods.  
4 Q. Goods stolen from one of your  
5 stores?  
6 A. Yes. Anything that's stolen  
7 from our store is loss, comp loss,  
8 anything that at the end of the day we  
9 should have had that is no longer there.  
10 Q. And what do you mean by  
11 "diversion"?  
12 A. Diversion, anything that is  
13 diverted not for its intended use.  
14 Q. Can you give us some examples of  
15 what you mean by "diverted not for its  
16 intended use"?  
17 A. So, for instance, drugs that are  
18 diverted and ultimately end up on the  
19 street, something that goes missing or  
20 goes lost and it's for illegal use.  
21 Q. So, I take it that the position  
22 of director of pharmacy loss prevention  
23 was a promotion for you, correct?  
24 A. Yes.

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1 Q. Did you have people working  
2 under you in that position?  
3 A. Yes.  
4 Q. How many people?  
5 A. Three analysts.  
6 Q. Those are direct reports,  
7 correct?  
8 A. Yes.  
9 Q. Did you have dotted line reports  
10 to you as well?  
11 A. No.  
12 (Rite Aid - Novack Exhibit 2,  
13 Corporate Loss Prevention Department  
14 chart January 26, 2011, Bates No.  
15 Rite\_Aid\_OMDL\_0044539, was marked for  
16 identification, as of this date.)  
17 MR. LAVELLE: Counsel, are we  
18 finished with Novack 1?  
19 (Pause.)  
20 MR. SIMMER: Actually, I'm not  
21 done with it yet. I have a few more  
22 questions. Just hold on to it for a  
23 minute.  
24 (Pause.)

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1 MR. SIMMER: Is there reason why  
2 you have to push them to the side,  
3 John?  
4 MR. LAVELLE: To avoid  
5 confusion.  
6 BY MR. SIMMER:  
7 Q. Okay. I hand you what we marked  
8 Novack Exhibit 1, Bates  
9 Rite\_Aid\_OMDL\_0044539, identified for the  
10 record as an org chart dated January 26,  
11 2011, with the, I guess the heading on the  
12 document Corporate Loss Prevention  
13 Department.  
14 MS. MOORE: Counsel, did you  
15 just say Novack 1?  
16 MR. SIMMER: I'm sorry, Novack  
17 2. Thank you.  
18 BY MR. SIMMER:  
19 Q. Do you see that?  
20 A. Yes.  
21 Q. Was the department you worked in  
22 always, or did -- when you first started  
23 working there, was it called Loss  
24 Prevention?

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1 A. When I started working there, it  
2 was already called Asset Protection.  
3 Q. So, when I see an org chart for  
4 2011 that shows your name on there, right?  
5 Do you see that?  
6 A. Yes.  
7 Q. And Sophia Lai, that is your --  
8 before you became Ms. Novack, you were Ms.  
9 Lai, correct?  
10 A. That is correct.  
11 Q. That was your maiden name,  
12 correct?  
13 A. Yes.  
14 Q. It says that that was called the  
15 Corporate Loss Prevention Department.  
16 Is that the same, do I have it  
17 the same department, essentially, but a  
18 different name?  
19 A. Yes.  
20 Q. When did the name change?  
21 A. Before I got there.  
22 It looks like this document,  
23 they didn't revise it. I don't know why  
24 the date says January 2011. It looks like



<p style="text-align: right;">Page 54</p> <p>1 they just inserted my name instead of  2 updating that org chart.  3 MR. LAVELLE: Counsel, is there  4 a Bates number for this document? I  5 don't see it on the copy that's here.  6 MR. SIMMER: There is on my  7 copy. I don't know why that one  8 doesn't.  9 I just read it into the record,  10 John.  11 MR. LAVELLE: Okay.  12 BY MR. SIMMER:  13 Q. So let me just make sure I  14 understand the structure.  15 Bob Ober --  16 A. Oberosler.  17 Q. Oberosler. Group  18 vice-president, Loss Prevention.  19 That's who you reported to?  20 A. Yes.  21 Q. Okay. And you were -- your  22 position was as a director; is that  23 correct?  24 A. Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 Is that right?  2 A. Yes.  3 Q. The two of you basically had the  4 same function; is that correct?  5 A. We had different functions. She  6 was more of the store analytics, and she  7 had different analysts that reported in to  8 her.  9 Q. And yours was not a store  10 function, but what kind of function again?  11 A. Mine is the pharmacy side of the  12 function.  13 Q. You're going to have to not  14 start answering questions until I finish  15 my --  16 A. Sorry.  17 Q. Okay. Again, you were a  18 pharmacy side, you say?  19 What does that mean?  20 A. I dealt with the pharmacy  21 transactions. So, we had different  22 analytic systems. I was basically  23 responsible for Naviscript, which was any  24 transactions related to a prescription</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. And the three individuals you  2 said the analysts working under you,  3 that's reflected on this org chart as  4 well, correct?  5 A. Yes.  6 Q. Now, it says -- I pointed also  7 to the date of January 26, 2011. I think  8 we already discussed the fact that you  9 didn't begin this -- your position until  10 August 2011.  11 A. Correct.  12 Q. So, did you start this position  13 before you have it reflected on your  14 LinkedIn page, or is the date wrong on  15 this document?  16 MR. LAVELLE: Object to form.  17 A. I started my position August  18 2011.  19 Q. Okay.  20 A. I'm not sure why that date says  21 January.  22 Q. Okay. I also noted -- noticed  23 that there is another person, Kathy  24 Langley, and she's a senior director.</p>	<p style="text-align: right;">Page 57</p> <p>1 function or pharmacy inventory.  2 Q. Just so we get it clear on the  3 record, I think you said it was  4 Naviscript.  5 Can you spell that, please?  6 A. N-A-V-I-S-C-R-I-P-T.  7 Q. And what is that?  8 A. That's a analytic tool that we  9 have available that we use to identify any  10 issues in the store. Key performance  11 indicators, pretty much.  12 Q. Is that a software program?  13 A. It's a -- it's a dashboard  14 vendor-based created.  15 Q. What vendor?  16 A. Naviscript.  17 Q. And it was used company-wide?  18 A. Yes.  19 Q. Is it not just your function in  20 Asset Protection, but the entire company  21 used it for -- for various different  22 purposes?  23 A. Anyone in the Asset Protection  24 Department had access to Naviscript.</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. No others in the company, 2 correct?</p> <p>3 A. Others in the company can get it 4 through us, but they didn't have direct 5 login.</p> <p>6 Q. It would be useful for us to the 7 extent you could explain what the 8 structure, who did what in asset 9 protection.</p> <p>10 Could you go through the org 11 chart and let me just ask you a few 12 questions about what's reflected here and 13 you sort of divide out who's doing what, 14 if you could?</p> <p>15 A. Sure.</p> <p>16 Q. Would that be fair?</p> <p>17 A. Yes.</p> <p>18 MR. LAVELLE: Object to form.</p> <p>19 BY MR. SIMMER:</p> <p>20 Q. So, under Mr. Oberosler there is 21 Bill Miller, senior director, LP 22 Technologies. And he has a group of 23 people under him.</p> <p>24 What did LP Technologies do?</p>	<p style="text-align: right;">Page 60</p> <p>1 protection district managers reported up 2 to these field directors.</p> <p>3 Q. The asset protection district 4 managers are not reflected on this org 5 chart.</p> <p>6 Is that right?</p> <p>7 A. Correct.</p> <p>8 Q. How many of those were there?</p> <p>9 A. I don't know.</p> <p>10 Q. So, do I have it right that each 11 division had a number of district managers 12 under it?</p> <p>13 A. Yes.</p> <p>14 Q. And, so, each of these 15 individuals had a district manager report, 16 a group of them reporting in, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So, Ms. Langley, you said 19 that she was more store-based, correct?</p> <p>20 A. She was the front end of the 21 business.</p> <p>22 Q. I see. You're the pharmacy 23 side; she's the front end. Okay.</p> <p>24 MR. LAVELLE: Object to form.</p>
<p style="text-align: right;">Page 59</p> <p>1 A. He basically coordinated with 2 the supply chain and also any type of 3 equipment, camera systems, locks, alarm 4 systems, that type of technology.</p> <p>5 Q. Coordinating the supply chain, 6 do you mean that he actually physically 7 was dealing with the shipments of drugs 8 between your pharmacies, or the asset 9 protection part of that?</p> <p>10 A. The --</p> <p>11 MR. LAVELLE: Object to form.</p> <p>12 A. He was the asset protection part 13 of that.</p> <p>14 Q. Okay. I'm not sure you said 15 this, but what does LP stand for?</p> <p>16 A. Loss prevention.</p> <p>17 Q. Okay. Over to the far left, 18 there are four individuals all with the 19 title "director" and different divisions 20 under them, except for Mr. Fallon.</p> <p>21 So, what are they doing, these 22 directors?</p> <p>23 A. They were our field directors.</p> <p>24 So, our asset protection -- our asset</p>	<p style="text-align: right;">Page 61</p> <p>1 BY MR. SIMMER:</p> <p>2 Q. And, so, the analysts working 3 under her are doing what?</p> <p>4 A. They're reviewing the analytics 5 for store-based transactions and reviewing 6 analytics and building analytics on how to 7 reduce loss.</p> <p>8 Q. So, in the structure here in 9 Asset Protection, how many of these 10 individuals are pharmacists, if you know?</p> <p>11 A. On this org chart here, myself.</p> <p>12 One.</p> <p>13 Q. So, the analysts working under 14 you, were they pharmacists?</p> <p>15 A. They were not.</p> <p>16 Q. You can put that aside.</p> <p>17 (Pause.)</p> <p>18 (Rite Aid - Novack Exhibit 3, 19 Corporate Asset Protection Department 20 organization chart, Bates No. 21 Rite_Aid_OMDL_0044732 to 22 Rite_Aid_OMDL_0044733, was marked for 23 identification, as of this date.)</p> <p>24</p>

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1 BY MR. SIMMER:  
2 Q. I hand you what we've marked as  
3 Novack Exhibit 3. I'll identify it for  
4 the record. It's a two-page exhibit,  
5 Rite\_Aid\_OMDL\_0044732 to 0044733.  
6 If you could take a moment to  
7 look at that.  
8 MR. LAVELLE: Counsel, there's  
9 only one page in front of her.  
10 MR. SIMMER: They didn't print  
11 the back?  
12 If we could go off the record  
13 for a minute.  
14 MR. LAVELLE: Yes, of course.  
15 THE VIDEOGRAPHER: The time is  
16 now 10:20 a.m.  
17 We are going off the record.  
18 (Recess taken.)  
19 THE VIDEOGRAPHER: The time is  
20 now 10:30 a.m.  
21 We are back on the record.  
22 BY MR. SIMMER:  
23 Q. Ma'am, we handed you what we've  
24 marked as Novack Exhibit 3. I'll identify

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1 it for the record as Rite\_Aid\_OMDL\_0044732  
2 and 0044733.  
3 MR. SIMMER: The -- this is  
4 something, John, we may want to talk  
5 about off the record, but some of the  
6 exhibits, and I think this is one,  
7 they cut off the Bates numbering. So  
8 we can either go back and substitute  
9 the ones with the Bates numbers, or we  
10 can just have it in the record.  
11 How would you like to do that?  
12 MR. LAVELLE: Well, ideally, we  
13 would have the Bates numbers on the  
14 ones that are going to be bound with  
15 the transcript. So we're --  
16 MR. SIMMER: We'll go ahead and  
17 substitute these in, if that meets  
18 your permission.  
19 MR. LAVELLE: Yes.  
20 MR. SIMMER: Okay.  
21 MR. LAVELLE: But we would like  
22 to note, as you have on the record for  
23 this one, what the Bates number is as  
24 you're showing it to the witness,

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1 please.  
2 MR. SIMMER: That's fine.  
3 BY MR. SIMMER:  
4 Q. Ma'am, you've had a chance to  
5 look at that document?  
6 A. Yes.  
7 Q. This appears to have been  
8 three-hole punched. So some of the  
9 printing has got holes in it, but on the  
10 first page, it looks like November 2013.  
11 Is that right?  
12 Do you see where I am up in the  
13 upper right-hand corner?  
14 A. Yes.  
15 Q. And the header on this says  
16 "Corporate Asset Protection Department."  
17 Do you see where I am?  
18 A. Yes.  
19 Q. By the way, on the prior  
20 exhibit, it had this too, it has at the  
21 top 29 field positions and then some  
22 vendor paid positions.  
23 Do you see what I'm talking  
24 about? Right under the title of the

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1 department.  
2 A. Yes.  
3 Q. I guess my -- I just want to  
4 have an understanding when it says "field  
5 positions" and "vendor paid positions," do  
6 you have any under -- any understanding  
7 what the difference is between those two?  
8 A. No.  
9 Q. Was your position that you held  
10 in Asset Protection a vendor paid  
11 position?  
12 A. No.  
13 Q. Do you know what a vendor paid  
14 position is?  
15 A. No.  
16 Q. One difference in this is that  
17 this is now called the Asset Protection  
18 Department.  
19 Do you see that?  
20 A. Yes.  
21 Q. Okay. And I think you already  
22 testified about this, but you always only  
23 worked in the Asset Protection Department.  
24 That's your recollection, correct?

<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Did the structure change</p> <p>3 other -- I can go through it if you'd</p> <p>4 like, but did the structure of the</p> <p>5 department change between the -- that last</p> <p>6 org chart and this org chart?</p> <p>7 MR. LAVELLE: Object to form.</p> <p>8 A. The overall structure doesn't</p> <p>9 seem to have changed except for adding a</p> <p>10 position in two different spots.</p> <p>11 Q. So just an additional position,</p> <p>12 not in a particular function; is that</p> <p>13 correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Okay. And, again, in this</p> <p>16 structure, you are the only pharmacist in</p> <p>17 the entire structure, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Could I direct your attention to</p> <p>20 the next page, please? And this, again,</p> <p>21 is Asset Protection Division org chart.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And it says five division</p>	<p style="text-align: right;">Page 68</p> <p>1 up to division directors, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You mentioned, too, that</p> <p>4 each division had investigators as well?</p> <p>5 A. Yes.</p> <p>6 Q. Just as an example, if you'd</p> <p>7 look in the upper left Division 1 and it</p> <p>8 goes over to the right Jason Gonzalez,</p> <p>9 senior manager of investigations and ORC.</p> <p>10 What is ORC?</p> <p>11 A. Organize -- Organized Retail</p> <p>12 Crime.</p> <p>13 Q. And, so, Mr. Gonzalez is the</p> <p>14 investigator you described a moment ago?</p> <p>15 A. Yes.</p> <p>16 Q. What did he do?</p> <p>17 A. He did a lot of the organized</p> <p>18 retail crime, meaning outreach with the</p> <p>19 local law enforcement departments, about</p> <p>20 any type of rings that may be going on</p> <p>21 with theft in stores, and he also handled</p> <p>22 high-level investigations in the store,</p> <p>23 and he was also a resource for any of the</p> <p>24 district managers that needed help with an</p>
<p style="text-align: right;">Page 67</p> <p>1 directors, eight regional directors, and</p> <p>2 it says January 2014.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Just generally, what is this</p> <p>6 structure trying to represent, if you</p> <p>7 know?</p> <p>8 A. This is the different field</p> <p>9 division leaders that we talked about on</p> <p>10 the previous org chart, and each division</p> <p>11 and their direct reports.</p> <p>12 So, the districts represent an</p> <p>13 asset protection district manager. They</p> <p>14 may have one or multi districts. And then</p> <p>15 there's also investigators in each</p> <p>16 division, and then they've got a regional</p> <p>17 director too that breaks down some of the</p> <p>18 responsibilities.</p> <p>19 Q. In terms of the hierarchy, which</p> <p>20 is the more senior position or the -- in</p> <p>21 the hierarchy, a division director or</p> <p>22 regional director?</p> <p>23 A. A division director.</p> <p>24 Q. So the regional directors report</p>	<p style="text-align: right;">Page 69</p> <p>1 investigation that they were handling</p> <p>2 locally.</p> <p>3 Q. And his -- is he the only</p> <p>4 investigator assigned to Division 1?</p> <p>5 A. All of the regional directors</p> <p>6 and the district managers are</p> <p>7 investigators, but he is a senior</p> <p>8 investigator assigned, yes.</p> <p>9 Q. They are invest -- they're</p> <p>10 trained investigators, you mean?</p> <p>11 A. They're trained investigators.</p> <p>12 Q. They have law enforcement</p> <p>13 background?</p> <p>14 A. They have Wicklander</p> <p>15 certification and our internal</p> <p>16 investigating certifications.</p> <p>17 Q. I'm not sure what you said as</p> <p>18 Wickhand?</p> <p>19 A. Wicklander.</p> <p>20 Q. What is that?</p> <p>21 A. That is an external</p> <p>22 certification for investigations and</p> <p>23 interviewing.</p> <p>24 Q. Can you spell that, please?</p>

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1 A. W-I-C-K-L-A-N-D-E-R.  
2 Q. And, where do you get a  
3 Wicklander certification?  
4 A. Through Wicklander.  
5 Q. What is Wicklander?  
6 A. It's a -- it's an organization  
7 that conducts training, and they certify  
8 that you've completed the training.  
9 Q. Just one question. I notice  
10 that there's a Jonathan Novack, regional  
11 director.  
12 Is that the person you  
13 eventually married?  
14 A. Yes.  
15 Q. Okay. And, he was a regional  
16 director over, I guess, in Division 4.  
17 Is that correct?  
18 A. Yes.  
19 Q. Where was he working out of at  
20 this time?  
21 A. New York.  
22 Q. Did he always work out of New  
23 York?  
24 A. He had some time in Jersey.

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1 Q. Okay. You can set that aside.  
2 Go back to your résumé for a  
3 moment, if we could.  
4 So, the next thing on your  
5 résumé is that your next position in  
6 October of 2014 became a regional  
7 vice-president.  
8 What were your responsibilities?  
9 MR. LAVELLE: Object to form.  
10 A. As a regional vice-president, I  
11 basically oversaw multiple districts  
12 within three different states.  
13 Q. Are you no longer in Asset  
14 Protection at this point?  
15 A. No longer in Asset Protection.  
16 Q. And you're a regional  
17 vice-president of pharmacy, correct?  
18 A. Yes.  
19 Q. So you didn't have any of the  
20 front of the store responsibilities as a  
21 regional VP, correct?  
22 A. I had a partner that was  
23 responsible for that, a regional  
24 vice-president.

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1 Q. What were the three states that  
2 you were responsible for?  
3 A. I had Georgia, South Carolina,  
4 and Tennessee.  
5 Q. And, where were you physically  
6 located as -- in this position?  
7 A. In Marietta, Georgia.  
8 Q. So, was the regional  
9 vice-president position a promotion for  
10 you?  
11 A. Yes.  
12 Q. Did you have direct reports?  
13 A. Yes.  
14 Q. And what direct reports did you  
15 have?  
16 A. Pharmacy district managers.  
17 Q. How many?  
18 A. We had -- we realigned. I think  
19 we had 13 direct reports at the time.  
20 Q. And this position as regional  
21 vice-president, is that a field-based  
22 position?  
23 A. That is a field-base, yes.  
24 Q. And I ask that because you're

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1 not working out of the corporate office  
2 any longer, correct?  
3 A. Correct.  
4 Q. And, what did you actually do as  
5 the vice-president -- regional  
6 vice-president?  
7 A. We trained and mentored our  
8 pharmacy district managers to insure  
9 operations in the stores that they  
10 oversaw, which ultimately rolled up to our  
11 region, over 300 stores at the time.  
12 Q. Did you have P&L responsibility?  
13 A. Yes.  
14 Q. And that would be for the 13  
15 districts that were under you?  
16 A. Yes. It's a region --  
17 Q. And ultimately for the  
18 pharmacies that were under them, correct?  
19 A. Yes.  
20 Q. And again, that's only the  
21 pharmacy side of those stores, correct?  
22 A. It's one P&L, but I was  
23 responsible for the pharmacy  
24 contributions.



<p style="text-align: right;">Page 74</p> <p>1 Q. And then your partner was 2 responsible for the -- the rest of the 3 contribution, correct? 4 A. Yes. 5 Q. Is there a term for what the 6 rest of that function is called? 7 A. Just store operations. 8 Q. Okay. You had that position for 9 two years and then you became then, in 10 September 2016, a pharmacy district 11 manager. 12 Do you see that? 13 A. Yes. 14 Q. And that was in September 2016, 15 correct? 16 A. Yes. 17 Q. And you held that position for 18 one year six months, correct? 19 A. Yes. 20 Q. And that was in Clifton, New 21 Jersey? 22 A. Yes. 23 Q. Is that a promotion for you? 24 A. No.</p>	<p style="text-align: right;">Page 76</p> <p>1 district manager position you took in 2 September 2016, did that have the same 3 duties as when you had been pharmacy 4 district manager back in February 2007 to 5 August 2011? 6 A. Similar. The position has 7 evolved a bit, but overall, direct store 8 responsibility for multiple pharmacies, 9 yes. 10 Q. And, how many pharmacies are you 11 responsible for, or were you responsible 12 for? Excuse me. 13 A. In that market, 17. 14 Q. And the next position you 15 have -- actually, it looks like you left 16 the company in February 2018. 17 Do I have that right? 18 A. I was actually acquired through 19 an asset purchase through Walgreens 20 acquiring the Rite Aid stores. So my 21 employment had transitioned over in 22 February. 23 Q. You were actually acquired; is 24 that right?</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. You stepped down; is that 2 correct? 3 A. Yes. 4 Q. Was that a voluntary move on 5 your part? 6 A. Yes. 7 Q. Why? 8 A. Relocated back for family so 9 that I could start a family of my own. 10 Q. I think we -- you got married at 11 some point along the way; is that correct? 12 A. I got married when I was in 13 headquarters, and then we had a baby about 14 a year-and-a-half ago. 15 Q. Okay. Congratulations. 16 A. Thank you. 17 Q. So, in 2016, you made a family 18 decision that you would step down your 19 responsibilities and move back to New 20 Jersey. 21 Is that -- do I have it right? 22 A. Yes. We moved back to New York. 23 My responsibility was in New Jersey. 24 Q. Okay. And, the pharmacy</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Yes. 2 Q. It's like a baseball player 3 getting acquired. 4 A. I feel like I was drafted. 5 Q. So they acquired the stores that 6 you were managing. 7 Is that right? 8 A. Yes. 9 Q. So, did your responsibilities 10 change when you became a Walgreens 11 employee? 12 A. No. We're currently still 13 operating under the Rite Aid structure. 14 We haven't converted our stores yet. 15 Q. And, so, the labels on the 16 stores that you manage are still Rite Aid, 17 correct? 18 A. Yes. 19 Q. But you're actually a Walgreens 20 employee? 21 A. Yes. 22 Q. So, other than sort of what we 23 just said, what changes have there been in 24 your job function when you became a</p>



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1 Walgreens employee in February 2018?  
2 A. There haven't been any changes  
3 in function. We are still operating the  
4 same stores with the same systems and the  
5 same everything.  
6 Q. Okay. Have you gone through any  
7 kind of retraining or -- when you became a  
8 Walgreens employee?  
9 MR. LAVELLE: Object to form.  
10 A. We have not gone through any  
11 training until we have a conversion  
12 schedule. So, once we are ready to  
13 convert our systems, we will go through  
14 that timelines training -- timeline  
15 training.  
16 Q. By conversion schedule, you mean  
17 actually for these to be physically made  
18 into Walgreens drug stores?  
19 A. Yes.  
20 Q. Okay. Does your husband still  
21 work for Rite Aid?  
22 A. No.  
23 Q. Does he work for Walgreens as  
24 well?

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1 A. No.  
2 Q. Where is he working now?  
3 A. He works at H & M.  
4 Q. How long did he work for  
5 Rite Aid?  
6 A. I don't know exactly, but over  
7 20-plus years through multiple  
8 acquisitions.  
9 Q. Was he always in Asset  
10 Protection?  
11 A. For Rite Aid?  
12 Q. Yes, ma'am.  
13 A. I don't know. When I met him,  
14 he was in Asset Protection. I don't know  
15 if he was always with Asset Protection.  
16 Q. Okay. You can set that aside.  
17 (Rite Aid - Novack Exhibit 4,  
18 e-mail dated January 25, 2012, with  
19 attachment, Bates No.  
20 Rite\_Aid\_OMDL\_037355 to  
21 Rite\_Aid\_OMDL\_037371, was marked for  
22 identification, as of this date.)  
23 BY MR. SIMMER:  
24 Q. The court reporter is handing

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1 you what we marked as Novack Exhibit 8.  
2 Again the printing service cut off the  
3 Bates numbering, so I'll read it into the  
4 record as Rite\_Aid\_OMDL\_037355 through  
5 37371. And we've put it up on the screen  
6 too.  
7 MR. LAVELLE: Counsel, you said  
8 Exhibit 8, but it's been marked by the  
9 court reporter as 4.  
10 MR. SIMMER: I'm sorry. I said  
11 8? I meant 4.  
12 You didn't read my mind, John.  
13 Come on.  
14 MR. LAVELLE: I just want to  
15 make sure the record is clear.  
16 BY MR. SIMMER:  
17 Q. Take a moment and look at that  
18 document, if you would.  
19 MR. LAVELLE: I'll just note,  
20 while the witness is looking at this  
21 document, that it's another one where  
22 the Bates number is not on the copy  
23 that's in front of her. So we'll need  
24 to substitute, as we discussed

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1 earlier.  
2 MR. SIMMER: I think I said the  
3 same thing.  
4 MR. LAVELLE: Right.  
5 BY MR. SIMMER:  
6 Q. On the first page of this  
7 document, it's a cover email. Looks like  
8 it's forwarding on one that you see your  
9 name on dated January 25th, 2012.  
10 Do you see that? It's from  
11 Janet Hart to you and to Tara Guma, Guma  
12 (different pronunciation).  
13 Do you see that?  
14 A. Yes.  
15 Q. And then the subject line it  
16 says "Controlled Substance Purchasing  
17 Limits."  
18 Do you see that?  
19 A. Yes.  
20 Q. And then attached to it is a --  
21 some kind of a presentation.  
22 Do you see that?  
23 A. Yes.  
24 Q. Have you seen this before?

<p style="text-align: right;">Page 82</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Tell us what this</p> <p>3 document is.</p> <p>4 A. This was a Power Point that we</p> <p>5 put together just to go over what the</p> <p>6 McKesson Controlled Substance Monitoring</p> <p>7 Program was and detail that, what a</p> <p>8 threshold increase would entail and what a</p> <p>9 clinical prot -- a clinic protocol was.</p> <p>10 Q. The email is dated January 2012.</p> <p>11 Do you have any idea when this</p> <p>12 document was prepared, or the attachment?</p> <p>13 A. I don't recall.</p> <p>14 Q. How was this document used?</p> <p>15 A. In various trainings,</p> <p>16 presentations.</p> <p>17 Q. And this is trainings of whom?</p> <p>18 A. Field teams. So, it could be</p> <p>19 asset protection district managers, it</p> <p>20 could be pharmacy district managers, it</p> <p>21 could be the regional managers that are</p> <p>22 out there.</p> <p>23 Q. It says in the very last page of</p> <p>24 this document there are no speaker notes</p>	<p style="text-align: right;">Page 84</p> <p>1 ordering not only through McKesson, but</p> <p>2 also through the distribution center,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. I direct your</p> <p>6 attention -- you don't have page numbers</p> <p>7 on yours, so I'll have to direct you to</p> <p>8 the heading. It's the third page of the</p> <p>9 presentation. The heading is "McKesson</p> <p>10 Thresholds."</p> <p>11 And for the record, it is Bates</p> <p>12 ending '37358.</p> <p>13 Do you see that?</p> <p>14 MR. LAVELLE: The witness has it</p> <p>15 in front of her.</p> <p>16 MR. SIMMER: It would be</p> <p>17 appropriate for the witness to answer</p> <p>18 the question, not the counsel.</p> <p>19 A. Sorry.</p> <p>20 Yes.</p> <p>21 Q. So, this, and if I have it</p> <p>22 right, is a summary of the -- some of the</p> <p>23 aspects of McKesson's ordering thresholds,</p> <p>24 correct?</p>
<p style="text-align: right;">Page 83</p> <p>1 contained in this presentation.</p> <p>2 Is that how you recall this</p> <p>3 document, that it had no speaker notes?</p> <p>4 A. I don't re -- I don't remember.</p> <p>5 Q. Did you use this presentation in</p> <p>6 trainings that you gave?</p> <p>7 A. Yes.</p> <p>8 Q. And this is a Power Point</p> <p>9 presentation; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. You see on the first page of the</p> <p>12 presentation itself it's "Controlled</p> <p>13 Substance Purchasing Limits."</p> <p>14 You see that?</p> <p>15 A. Yes.</p> <p>16 Q. And, just generally, what is</p> <p>17 that meant to cover, that subject area</p> <p>18 here?</p> <p>19 A. In this particular presentation,</p> <p>20 it was to cover the limits that they would</p> <p>21 approach if they were ordering a</p> <p>22 controlled substance item through our</p> <p>23 vendor, McKesson, and also through the DC.</p> <p>24 Q. So, it's controlled substance</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes.</p> <p>2 Q. And that's for controlled</p> <p>3 substances, correct?</p> <p>4 A. Yes.</p> <p>5 Q. So, just a question how this is</p> <p>6 structured, and it -- under the second</p> <p>7 bullet "Individual Base Code" it has two</p> <p>8 sub bullets and then one under that: A</p> <p>9 store reached their threshold for</p> <p>10 Diazepam.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. So I have it right that this is</p> <p>14 simply an example of what's being</p> <p>15 discussed above that?</p> <p>16 A. Yes, this is an example.</p> <p>17 Q. And right below that where it</p> <p>18 says the store would be blocked from</p> <p>19 ordering any Diazepam containing product</p> <p>20 for the remainder of the calendar month,</p> <p>21 so, what that is saying if the store has</p> <p>22 reached the threshold, they can't order</p> <p>23 any more that month, correct?</p> <p>24 MR. LAVELLE: Object to form.</p>

<p style="text-align: right;">Page 86</p> <p>1 A. It means that they will not  2 receive any more if they try to order  3 within that month.  4 Q. A couple bullet -- or a couple  5 points below that it says: Can reorder  6 the next month or if an increase is  7 approved.  8 Is that right?  9 A. Yes.  10 Q. Okay. So, explain what that is  11 saying.  12 A. It means once your threshold is  13 met for the month, the next available time  14 that you would be able to get product in  15 your store is the next calendar month, or  16 if there was an increase put in for a  17 threshold, then you would be able to order  18 at that time.  19 Q. Could you turn back two pages  20 after that? The heading is "Threshold  21 Accommodations," Bates 37360.  22 Do you see that?  23 A. Yes.  24 Q. So, on the first bullet it says:</p>	<p style="text-align: right;">Page 88</p> <p>1 heading is "Order Volume."  2 Are you with me?  3 A. Yes.  4 Q. This is Bates ending '0037361.  5 You see where it says: Place  6 smaller more frequent CII orders?  7 A. Yes.  8 Q. What does that mean?  9 A. Our stores don't have auto  10 replenishment on CII's. Sometimes they  11 like to do bulk orders. So we would like  12 them to control their order so they are  13 ordering what is needed for the patient  14 instead of ordering outside of that.  15 Q. And below that it says: Avoids  16 problems with the threshold.  17 What does that mean, problems  18 with the threshold?  19 A. So, they don't traditionally use  20 that medication and they get a new script  21 for it. So they order a bulk item for  22 three or four months on hand, and that  23 depletes their threshold for the items  24 that they do dispense. They are not going</p>
<p style="text-align: right;">Page 87</p> <p>1 Warehouse item out of stock.  2 Do you see that?  3 A. Yes.  4 Q. And what is that saying,  5 warehouse item out of stock?  6 MR. LAVELLE: Object to form.  7 A. Our controlled substances also  8 are sourced through our distribution  9 centers. If the distribution center is  10 out of stock on an item.  11 Q. There right below that it says:  12 McKesson will be advised to adjust the  13 threshold to accommodate our business  14 needs.  15 Do you see that?  16 A. Yes.  17 Q. And, so, when it says "business  18 needs," what's that -- what's the meaning  19 of that?  20 A. It means that the warehouse is  21 out of stock. Patient needs it. We can't  22 supply them any. We need to order through  23 our vendor that has quantities on hand.  24 Q. Turn to the next page. The</p>	<p style="text-align: right;">Page 89</p> <p>1 to be able to get product for their  2 regular patients that they serve.  3 Q. I think our record wasn't real  4 clear.  5 Do you know if they were to  6 order it in bulk --  7 A. Yes.  8 Q. -- that would hit their  9 threshold?  10 A. So, if they ordered something  11 without any type of dispensing history and  12 they just said, you know what, a patient  13 came for it and I'm going to order a big  14 bottle. It only comes in one size and I'm  15 going to order a thousand, but I'm only  16 going to dispense 30. Now, that's going  17 to debit against their threshold for that  18 whole active ingredient for anything else  19 that they would have needed to service  20 their regular patient.  21 Q. The next thing it says: It  22 reduces risk of  23 diversion/robberies/burglaries.  24 What is meant by that?</p>

Page 90

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 MR. LAVELLE: Object to form.  
21 A. That was our suggestion for our  
22 stores so that we can maintain a level  
23 inventory.  
24 Q. It's just a suggestion, not a

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1 policy?  
2 A. Just a suggestion.  
3 Q. And why would a pharmacy not  
4 follow that suggestion?  
5 A. A pharmacist, since these are  
6 manual orders, sometimes they just want to  
7 do their control counts and they want to  
8 order for the month all at once.  
9 Q. If you'd look at the next page,  
10 that's Bates ending '0037362. The heading  
11 is "Alerts."  
12 What's an alert?  
13 A. Notification.  
14 Q. Is that something that's  
15 actually triggered in the system?  
16 A. It's something that's triggered  
17 on the McKesson side and it's indicated on  
18 their invoices.  
19 Q. Do they use that terminology  
20 "alert" like that?  
21 A. I'm not sure.  
22 That's how we trained our team.  
23 Q. Incidentally, this Power Point  
24 presentation is summarizing, as you said,

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1 and we've been looking at, the McKesson  
2 suspicious order monitoring policy, right?  
3 A. This is their program, yes.  
4 Q. How is it you know about the  
5 McKesson policy?  
6 A. This isn't their policy. This  
7 is what happens in the operations of our  
8 stores.  
9 So, as an order comes in, if  
10 it's already passed their threshold, it  
11 will show up on their invoice to let the  
12 teams know that they're not going to be  
13 able to receive their supply because we  
14 have to make sure we can communicate to  
15 the patient that they're not going to get  
16 their medication.  
17 Q. Wasn't my question.  
18 I wanted to know how is it you  
19 know what the McKesson policy is so you  
20 can -- it's summarized here.  
21 MR. LAVELLE: Object to form.  
22 A. This procedure has been  
23 communicated with -- for -- to us as a  
24 company so that we can educate our teams

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1 on how the systems work.  
2 Q. Communicated by McKesson,  
3 correct?  
4 A. This is a training that we've  
5 always had. So how it was initially  
6 communicated, not sure, but this is a  
7 McKesson --  
8 Q. So this information about the  
9 McKesson's procedures was in place at the  
10 time you -- you became part of Asset  
11 Protection, correct?  
12 A. Correct.  
13 Q. So, you yourself didn't  
14 actually, you know, have this training  
15 from McKesson; someone else did prior to  
16 your time there?  
17 A. This training was given to me by  
18 somebody at Rite Aid.  
19 Q. And this Power Point  
20 presentation was given to you as well?  
21 A. This Power Point presentation  
22 was created after that training.  
23 Q. By you?  
24 A. By me.

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1 Q. How did you do it if you didn't  
2 attend the training?  
3 A. I did have training.  
4 So, there's a policy and  
5 procedure in place at Rite Aid. So, from  
6 that, this is education to our store teams  
7 on what we would see as we're operating  
8 our business day in and day out.  
9 Q. Okay. That's where you're  
10 losing me.  
11 How is it you know what -- if  
12 you weren't actually part of the training  
13 from McKesson, how is it you know what the  
14 McKesson procedures are so that you can  
15 convey it in this training slide deck?  
16 MR. LAVELLE: Object to form.  
17 A. This is what we see on the  
18 Rite Aid side. This is not alluding to  
19 what their policies are. This is alluding  
20 to the procedures that we get from when we  
21 receive our invoices and what our store  
22 manager -- our pharmacy managers can  
23 identify on their invoices.  
24 Q. Okay. We have a disconnect.

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1 So, how is it you know what  
2 McKesson's procedures are? Is it because  
3 you witnessed them?  
4 You didn't have any direct  
5 interaction with McKesson about this?  
6 MR. LAVELLE: Object to form.  
7 A. So, I know this is the process  
8 that we follow based off of procedures  
9 that we already had instilled in Rite Aid  
10 at the time I went into that office. So  
11 it's re-communicating that information in  
12 the process that we have.  
13 Q. So, let's go back to this slide  
14 we were just talking about where it says  
15 "Alerts."  
16 You see the second bullet:  
17 Thresholds can be adjusted for individual  
18 base codes.  
19 Do you see that?  
20 A. Yes.  
21 Q. What's an individual base code?  
22 A. It's a drug. So, if it's  
23 oxycodone, whether it's hydrocodone,  
24 whether it's clonazepam, that's an

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1 individual code.  
2 Q. What -- but, I'm not clarifying this.  
3 What is a base code? The term  
4 "base," what does that mean?  
5 MR. LAVELLE: Object to form.  
6 A. It's the ingredient.  
7 Q. So, oxycodone could have  
8 multiple codes, but what is its base code?  
9 MR. LAVELLE: Object to form.  
10 A. Oxycodone is the base code.  
11 Q. As I understand it, every drug  
12 comes with an NDC, correct?  
13 A. Yes.  
14 Q. The NDC reflects the actual  
15 ingredient, but also has package size and  
16 strength, correct?  
17 A. Correct.  
18 Q. So, when you're talking about  
19 individual base code, does that also  
20 reflect package size and strength, or is  
21 it just the chemical ingredient?  
22 MR. LAVELLE: Object to form.  
23 A. The base code is the chemical  
24 ingredient, accounts for all different

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1 NDCs.  
2 Q. Okay. That's what I'm trying to  
3 understand.  
4 When you're changing a  
5 threshold, let's say I want to change the  
6 oxycodone base -- threshold and I want  
7 more -- that would include all package  
8 sizes, all strengths, right, that base  
9 code?  
10 MR. LAVELLE: Object to form.  
11 A. That, yes.  
12 Q. So, when I'm communicating to  
13 McKesson I want to increase that  
14 threshold, how do they convert that into  
15 strength and package size as well?  
16 MR. LAVELLE: Object to form.  
17 BY MR. SIMMER:  
18 Q. Do you see what I'm saying, the  
19 problem I'm having with just increasing  
20 base code only?  
21 MR. LAVELLE: Same objection.  
22 A. The base code is the individual.  
23 So, once they've exceeded that threshold,  
24 it doesn't matter which NDC you're



<p style="text-align: right;">Page 98</p> <p>1 ordering, it debits to the same threshold.          2 Q. So, if I understand it, Rite Aid          3 had a threshold of 5,000 per month; is          4 that right? For individual base codes,          5 correct?          6 MR. LAVELLE: Object to form.          7 A. Could you repeat that?          8 Q. Do I have it right that Rite Aid          9 had a threshold of 5,000 units for each          10 base code per month?          11 A. No, that's not right.          12 Q. Okay. What was the threshold?          13 A. It was 5,000 dosage units per          14 NDC per order.          15 Q. And a dosage unit, it would be          16 what?          17 A. The count of tablets, capsules.          18 Q. Let's go back to it says that to          19 increase the threshold requires a          20 legitimate business reason.          21 Do you see that?          22 A. On the same page, yes.          23 Q. And, when you gave this          24 presentation, did you give examples of</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. To you in Asset Protection?          2 MR. LAVELLE: Same objection.          3 A. So, it's the pharmacy manager,          4 not the store manager.          5 Q. I'm sorry. Pharmacy manager,          6 okay.          7 A. Would do the request to the          8 pharmacy district manager, and then it          9 would come through me.          10 Q. Okay. At each point along the          11 way it has to have a legitimate business          12 reason, right?          13 A. They have to identify the reason          14 why and, yes, determine that it is          15 legitimate.          16 Q. And then the -- you as the          17 director of pharmacy loss prevention would          18 in turn go to McKesson and request the          19 threshold change, correct?          20 A. If it was deemed legitimate,          21 yes.          22 Q. And you would also have to tell          23 McKesson what the legitimate business          24 reason was, right?</p>
<p style="text-align: right;">Page 99</p> <p>1 legitimate business reasons?          2 A. I don't recall what we had gone          3 through, but --          4 Q. So, that's when -- and, who          5 would actually request this threshold          6 change at Rite Aid?          7 A. It would have to come from the          8 store and then it goes to the pharmacy          9 district manager, and then if it is a          10 McKesson threshold request, it would come          11 through me. If it was a supplier chain          12 threshold, it would go through somebody          13 else.          14 Q. So, it has to have a legitimate          15 business reason at every step along the          16 way, right?          17 A. Yes.          18 Q. So, that the store manager would          19 have to -- to request the threshold change          20 and give a legitimate business reason to          21 the district manager. The district          22 manager would review that and only hand it          23 on to -- to the, who's next in the line?          24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 101</p> <p>1 A. We would give them the requested          2 increase percentage that we want.          3 Q. That wasn't my question.          4 Would you have to give them the          5 legitimate business reason for the change?          6 MR. LAVELLE: Object to form.          7 A. I don't remember what the          8 criteria was. I believe that we did give          9 them some information on the percentage          10 increase and the reason behind it.          11 Q. In the last sub bullet here it          12 says: Coordinated corporately through LP.          13 That LP is Loss Prevention,          14 correct?          15 A. Yes.          16 Q. And you're using the term at          17 Loss Preparation, and we also, I guess --          18 the department had changed to Asset          19 Protection at this point, right?          20 A. Yes.          21 Q. Okay. So, in terms of how the          22 alerts were handled, it would actually go          23 to Asset Protection and not to Loss          24 Prevention, correct?</p>



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<p>1 A. Yes. Same department, just 2 rebranded. 3 Q. Okay. 4 A. Same person. 5 Q. Could you turn two pages back, 6 please, to Bates ending '37364. The 7 heading on that is "PDM Action for 8 Threshold Increase." 9 And it -- 10 MR. LAVELLE: Counsel, there's 11 more than one document that has that 12 same heading. 13 MR. SIMMER: I'm sorry. The 14 subheading right below that is 15 "Include in the communication." 16 BY MR. SIMMER: 17 Q. Are you with me? 18 A. Yes. 19 Q. I know it presents a little 20 additional challenge since we don't have 21 Bates numbering. So, this is Bates ending 22 '37364. 23 It says: Include in the 24 communication.</p>	<p>1 example of some of the reasons you could 2 give: A new pain clinic, et cetera, will 3 be -- will need prescribing MD data for 4 review. 5 Do you see that? 6 A. Yes. 7 Q. And that's an example of a 8 reason that could be given for an increase 9 in threshold? 10 A. That's a example that will also 11 require additional information from the 12 field. 13 Q. Okay. That wasn't my question. 14 What it says here, this is a 15 reason that could be given, right? 16 MR. LAVELLE: Object to form. 17 A. We identified that as a bullet 18 because you can't just tell us it's a new 19 pain clinic. If that is the reason, you 20 will have to give us more information. 21 Q. It doesn't say that though here, 22 right? 23 MR. LAVELLE: Object to form. 24 A. That's part of our presentation.</p>
Page 103	Page 105
<p>1 This is -- and by the way, when 2 it says PDM, what does that abbreviation 3 stand for? 4 A. Pharmacy district manager. 5 Q. Okay. And, so, just briefly, 6 what is this slide conveying? 7 A. This is the information that the 8 pharmacy district manager needs to supply 9 when they are requesting a threshold 10 increase from my department. 11 Q. And it says you're supposed to 12 include the store number, correct? 13 A. Yes. 14 Q. And then the base code. 15 We talked about the base code a 16 moment ago, right? 17 A. Yes. 18 Q. And that's talking about the 19 active ingredient again, right? 20 A. Yes. 21 Q. The reason for the adjustment, 22 right? 23 A. Yes. 24 Q. And then it gives under that an</p>	<p>1 Q. You go on then in the 2 presentation to say, okay, if you say it's 3 a new pain clinic, we're going to have 4 more questions for you. 5 Is that how you handled it? 6 A. Yes. We want -- 7 MR. LAVELLE: Object to form. 8 A. We wanted to give them some more 9 information that it's not as simple as 10 there's something new that's causing us to 11 go higher in thresholds. 12 Q. Okay. Next bullet below that it 13 says: Requested adjustment percentage. 14 Do you see that? 15 A. Yes. 16 Q. So, what does that mean, 17 requested adjustment percentage? 18 A. The amount that the field team 19 deems that they feel is necessary to -- 20 for that store. 21 Q. So it's reflected in an actual 22 percentage? 23 A. Yes. 24 Q. And it's of their -- the</p>

<p style="text-align: right;">Page 106</p> <p>1 threshold that each store has, they want  2 an adjustment of a specific percentage,  3 correct?  4 A. Yes.  5 Q. Okay. And it says: Copy RXVP  6 on communication.  7 What is that saying?  8 A. On that communication that  9 they're sending over to me, they should  10 also copy their regional pharmacy  11 vice-president so that they are aware.  12 Q. Okay. Could you turn to the  13 next page, please? The heading on that is  14 "Clinic Protocol." Under that is: Upon a  15 second request for a threshold increase.  16 Do you see that?  17 A. Yes.  18 Q. This is Bates ending right --  19 '37365.  20 What is a clinic protocol?  21 A. A clinic protocol is something  22 we designed for our store teams to go  23 through when they are requesting for a  24 threshold increase that we need some more</p>	<p style="text-align: right;">Page 108</p> <p>1 A. It is determined based off of  2 the request.  3 Q. What do you mean by that?  4 A. So, upon a second request or  5 upon a request that does not seem -- that  6 we need additional information on to  7 determine that there is a legitimate  8 business need or a patient need, we will  9 send out a clinic protocol to that store  10 and that store team.  11 Q. Okay. So, the clinic protocol  12 is not something routinely required. It's  13 only if the Asset Protection people feel  14 it's necessary, correct?  15 A. Yes.  16 Q. And, what are the circumstances  17 under which Asset Protection would require  18 the clinic protocol to be completed?  19 A. We go through a lot of different  20 analytics to review the base business, the  21 reason for the business and to review  22 doctors. We utilize our KPIs and also IMS  23 data to feed a lot of that information.  24 If it was something simplistic, like we</p>
<p style="text-align: right;">Page 107</p> <p>1 information on.  2 Q. Is that an actual document or a  3 online procedure they're supposed to  4 follow?  5 A. It's an actual document.  6 Q. Where is that housed?  7 A. We send it out to them  8 individually each time we need a clinic  9 protocol done.  10 Q. And, what is the document  11 called?  12 A. Clinic protocol.  13 Q. And, are these retained by the  14 company?  15 A. Yes.  16 Q. And, where are they retained?  17 A. In the Government Affairs  18 Department.  19 Q. So, every time a threshold  20 increase is requested, the -- the store --  21 excuse me. The pharmacy manager, and then  22 in turn the district manager, have to  23 complete the form; is that correct?  24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 109</p> <p>1 purchased a independent pharmacy and their  2 files are coming and we're increasing our  3 overall business by 60 percent, then we  4 can look at our dispensing history. But  5 if there was no external reason for this  6 increase in demand, then we would do our  7 due diligence.  8 Q. And that's when you would  9 request the clinic protocol form to be  10 completed?  11 A. Yes.  12 Q. And you do the analytics in  13 every instance?  14 A. For a threshold increase, yes.  15 Q. You said you review the business  16 business.  17 What is that?  18 A. We review the business needs.  19 Q. Business need. I'm sorry.  20 What is business need?  21 A. Our patients that come in  22 through our door that have prescriptions  23 for legitimate need, medical need.  24 Q. So, when you say you review the</p>

<p style="text-align: right;">Page 110</p> <p>1 patients that come through our door to  2 determine if there's a legitimate need,  3 what do you actually do to determine that?  4 A. You asked what business needs  5 meant. So that's what I meant by business  6 needs.  7 Q. Is that something you do in  8 every instance, look at the patient need?  9 MR. LAVELLE: Object to form.  10 A. For any threshold increase, we  11 do review the full base business before we  12 recommend or request a threshold increase.  13 Q. You said you also review the  14 doctors, correct?  15 A. We review the prescribers that  16 drive some of the -- or their top  17 prescribers in the base code for that  18 store.  19 Q. And how do you do that?  20 A. We run our dispensing history.  21 Q. And then when you say you review  22 them, what do you do?  23 A. We pull up the information. We  24 look at what the dosage units are that</p>	<p style="text-align: right;">Page 112</p> <p>1 information?  2 A. From our dispensing information.  3 We give them a data feed of all of our  4 transactions.  5 Q. So, a performance indicator is a  6 what? What is that?  7 MR. LAVELLE: Object to form.  8 A. A performance indicator are  9 different metrics that we've identified  10 that, if there was an anomaly, could lead  11 us to suspicious activity.  12 Q. And what do you mean by metrics  13 that you've identified? What are they?  14 MR. LAVELLE: Object to form.  15 A. There's a lot of different ones  16 that are in the system. We track cycle  17 countdowns. We track order adjustments.  18 We track number of manual orders that are  19 placed. We track dispensing information.  20 We track if anything has been sold and  21 then resold or deleted. So, a lot of  22 different information that feeds in and we  23 can look at it.  24 Q. I take it that what you are</p>
<p style="text-align: right;">Page 111</p> <p>1 they are dispensing, how many  2 prescriptions, how many patients, are they  3 also dispensing other medications that are  4 non-controlled. Then we look at their  5 disciplines for our top doctors through  6 IMS, check for their DEA registration,  7 make sure that they have prescribing  8 authority for controlled substances. We  9 check to make sure that they have an  10 active license. We check to see what  11 their profession is to make sure that it  12 is within their prescribing rights.  13 Q. You also said you utilize your  14 KPIs.  15 What is that?  16 A. In Naviscript we have a lot of  17 key performance indicators that allow us  18 to review the business and if there's any  19 instance of diversion in our stores. So,  20 before we increase a threshold, we make  21 sure we don't have any indication of an  22 internal issue.  23 Q. So, this Naviscript third party  24 vendor program, where do they get their</p>	<p style="text-align: right;">Page 113</p> <p>1 doing in Asset Protection, you're using  2 the dispensing data for that purpose?  3 A. Yes. Dispensing data and  4 transaction data from inventory and we're  5 using transaction data from our point of  6 sale system.  7 Q. You said that you track cycle  8 countdowns.  9 What is that?  10 A. Any time an on-hand adjustment  11 is down.  12 We actually track all cycle  13 counts, whether it's up or down.  14 Q. Still don't follow what you mean  15 by an on-hand adjustment.  16 MR. LAVELLE: Object to form.  17 A. If our inventory system shows  18 that we should have one cup and I go to  19 the shelf and I don't have one cup, I put  20 zero because I don't physically have it.  21 That's considered an on-hand adjustment.  22 It's a cycle counting down.  23 Q. What's an order adjustment?  24 A. We have an auto replenishment</p>

<p style="text-align: right;">Page 114</p> <p>1 system that takes our trend and generates  2 an order for our store. If the store  3 decides that they want to increase or  4 decrease the order, then that would be an  5 adjustment, and we would track that too.  6 Q. You said you also track the  7 number of manual orders that are placed?  8 A. Yes. We can see any type of  9 orders that were placed in through our  10 vendors, and that will also come up in our  11 KPI system.  12 Q. But what is a manual order  13 adjustment?  14 A. Somebody that goes in and  15 overrides the order manually,  16 replenishment suggested this and they do  17 more, or they went and placed an order  18 through our vendors.  19 Q. Okay. I'm not following you  20 though.  21 So, a manual adjustment, who's  22 doing a manual change here? Is it the  23 local pharmacist?  24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 116</p> <p>1 this document "Clinic Protocol."  2 It says: Upon a second request  3 for a threshold increase.  4 What's a second request?  5 A. If there was initial increase  6 and then somebody's asking for a second  7 time of an increase.  8 Q. The same month, or is it -- is  9 there a certain period of time when you  10 say that's a second request?  11 MR. LAVELLE: Object to form.  12 A. It's any time. If it's a second  13 request, then we will review.  14 Q. What if the first request and  15 the second request are two years apart,  16 would that still be called a second  17 request?  18 A. If it was two years apart, we  19 would still review the information in the  20 database to see if they had requested  21 something previously, and then if there  22 was any business needs that require us to  23 do a clinic protocol.  24 Q. That didn't really answer my</p>
<p style="text-align: right;">Page 115</p> <p>1 A. It's the associate in the store.  2 So the --  3 Q. The associate and not the  4 pharmacist?  5 MR. LAVELLE: I think the  6 witness was not finished answering --  7 giving her answer.  8 BY MR. SIMMER:  9 Q. I apologize. Go ahead.  10 Complete your answer.  11 A. The ordering system is  12 accessible by our pharmacy associate, and  13 a pharmacy associate can place an order  14 for medications.  15 Q. Again, is it pharmacy associate,  16 that's not the pharmacist, right?  17 MR. LAVELLE: Object to form.  18 A. It could be the pharmacist,  19 pharmacy manager. It could be a pharmacy  20 technician.  21 Q. So you're using the term  22 "pharmacy associate" to include all three?  23 A. Anyone in that pharmacy.  24 Q. Okay. Let's go back and look at</p>	<p style="text-align: right;">Page 117</p> <p>1 question.  2 In the example I gave, it was  3 two years apart.  4 Would that still be deemed a  5 second request?  6 MR. LAVELLE: Object to form.  7 A. A second request, yes.  8 Q. So it makes no difference how  9 long apart it is. If it's a second  10 request for that same base code, you would  11 treat it as a second request, no matter  12 how far apart it was, right?  13 MR. LAVELLE: Object to form.  14 A. If there was a increase that was  15 put in and it is more than one time for  16 the same base code and it wasn't an  17 external activity that we had created for  18 that store, we would treat it the same way  19 as a second request.  20 Q. What's an example of an external  21 activity that was created for that store?  22 A. An acquisition or filed by, we  23 bought another pharmacy and we're bringing  24 in all those patients.</p>

<p style="text-align: right;">Page 118</p> <p>1 Q. Okay. Back to the document. 2 It says that the clinic protocol 3 will be sent to the PDM and LPDM. 4 And LPDM is loss prevention 5 district manager, correct? 6 A. Yes. 7 Q. And then there's information 8 that's requested to be completed on that 9 form. That's what is reflected below, 10 correct? 11 A. Yes. 12 Q. It says: Verify prescriber and 13 credentials. 14 Right? 15 A. Yes. 16 Q. Verify physical location of the 17 clinic/office. 18 Correct? 19 A. Yes. 20 Q. That's the doctor's office 21 that -- that is on the prescription, 22 correct? 23 A. Yes. 24 Q. Review prescribing patterns.</p>	<p style="text-align: right;">Page 120</p> <p>1 Is that Board of Pharmacy? 2 A. Yes. 3 Q. Medical board to inquire about 4 complaints/issues/concerns. 5 What's being conveyed there? 6 A. If we have good contacts with 7 the local law enforcement. Or even if we 8 have good contacts, a lot of times we know 9 our board investigators or board 10 inspectors will ask them if they see any 11 activity with this prescriber or there are 12 any concerns, so they'll reach out. 13 Q. You say a lot of times. 14 This wasn't something that was 15 always required? 16 A. I said a lot of times if we have 17 good relationships with them. If not, we 18 may have to bring that back into our 19 corporate office if they don't have a good 20 relationship with the local board or DEA 21 and somebody in our department could reach 22 out to them. 23 Q. So, who is it that's contacting 24 the DEA, the Board of Pharmacy, or the</p>
<p style="text-align: right;">Page 119</p> <p>1 Is that correct? 2 A. Yes. 3 Q. And that's the -- the doctor's 4 or the clinic's prescribing patterns, 5 correct? 6 A. Yes. 7 Q. Just on that point, what -- what 8 are you looking for in patterns? 9 A. What else are they prescribing 10 with medication? If it's pain, are they 11 also managing their long-acting and 12 short-acting pain? If it's a primary care 13 prescriber, do they have maintenance 14 medications that are being prescribed to 15 their patients? So. 16 , reviewing all different things 17 from that prescriber. 18 Q. Okay. And then the fourth 19 bullet says: Contact local DEA/BOP. 20 That's Board of Pharmacy; is it 21 not? 22 MR. LAVELLE: Object to form. 23 BY MR. SIMMER: 24 Q. You see where it says "BOP."</p>	<p style="text-align: right;">Page 121</p> <p>1 medical board, as you're saying here? Is 2 that supposed to be the PDM and LPDM 3 that's doing that contact? 4 A. Yes. If they have relationships 5 with them, the PDM and the LPDM. 6 Q. If they don't, then it comes 7 back into the corporate office, right? 8 A. Yes. 9 Q. For Asset Protection to do that 10 contact, right? 11 A. Government Affairs. They have a 12 very good relationship with multiple 13 boards. 14 Q. So, in every instance, it is 15 either the PDM, LPDM or government 16 relations that contacts these entities to 17 find out what information they can about 18 this particular prescriber, correct? 19 A. When they're conducting a clinic 20 protocol, yes. 21 Q. Okay. And, so, in every 22 instance, these four things would have to 23 be completed before the threshold increase 24 would be approved, right?</p>



<p style="text-align: right;">Page 122</p> <p>1 A. In every instance, we would go  2 through this clinic protocol. If any one  3 of these were not physically able to do,  4 then we would determine that we may not  5 even proceed. So, for instance, they may  6 not get as far as to contact anyone if  7 they can't even verify a physical  8 location. So we would stop.  9 Q. And last thing on this page it  10 says: Deemed clinically appropriate.  11 Do you see that?  12 A. Yes.  13 Q. And what does that mean?  14 A. It means if it's deemed  15 clinically appropriate, then we would  16 proceed with the threshold increase.  17 Q. So, what kind of analysis is  18 actually done to determine whether the  19 threshold was clinically appropriate?  20 MR. LAVELLE: Object to form.  21 A. We do the whole analysis that we  22 had just mentioned before. Again, we look  23 at our own store and our dispensing  24 history. We look at how much of</p>	<p style="text-align: right;">Page 124</p> <p>1 information from our dispensing system.  2 Q. So you just have the prescribing  3 history is all, right?  4 A. Yes.  5 MR. LAVELLE: Object to form.  6 BY MR. SIMMER:  7 Q. Is that sufficient to actually  8 determine whether it's clinically  9 appropriate, the prescribing history only?  10 MR. LAVELLE: Object to form.  11 A. We also marry that with  12 prescriber information. So, again, we're  13 looking at if there's a specific  14 prescriber that's generating this  15 information, is that prescriber operating  16 within their profession. So, how many of  17 our patients are really treatment and care  18 that we can see that there is documented  19 information on diagnosis codes and what we  20 can look at for these patients.  21 Q. So, if I, Scott Simmer, go to my  22 Rite Aid Pharmacy and hand a prescription  23 to the pharmacist and ask that it be  24 filled and it triggered some threshold</p>
<p style="text-align: right;">Page 123</p> <p>1 controlled substances in general that we  2 are dispensing, whether it be for that  3 base code or an overall code. We look at  4 different flags on whether it is cash,  5 whether these patients are insurance-base.  6 We look at the prescribers that are  7 generating this business for us or  8 prescribing to our patients. We want to  9 make sure that they have a legitimate  10 professional license to dispense and treat  11 these patients this way.  12 So, there's a lot of different  13 things that we do locally and with  14 coordination with the corporate office to  15 determine that it is clinically  16 appropriate.  17 Q. That's what I'm having trouble  18 with. I don't see anything in there  19 that -- that illustrates that you've  20 actually done a clinical analysis.  21 You don't get the medical  22 records for the patient, do you?  23 MR. LAVELLE: Object to form.  24 A. We have our prescribing medical</p>	<p style="text-align: right;">Page 125</p> <p>1 increase examination like that, how would  2 you determine whether the prescription I  3 had gotten was clinically appropriate?  4 MR. LAVELLE: Object to form.  5 BY MR. SIMMER:  6 Q. You didn't look at my medical  7 records, did you?  8 MR. LAVELLE: Object to form.  9 A. So, we're not making that  10 determination on whether that patient has  11 specific need. We're looking to see if we  12 need to increase the amount that's coming  13 through that store.  14 Ultimately, that pharmacist  15 behind that bench is going to make that  16 professional judgment on whether they are  17 going to fill that prescription or not.  18 We give them a lot of guidance and a lot  19 of training on what's deemed medically  20 necessary and make sure that they  21 understand some of the things that they  22 may look at from a red flags perspective,  23 but they make that determination for that  24 patient. We can look at the store and</p>



<p style="text-align: right;">Page 126</p> <p>1 whether we can increase the supply or not.  2 Q. In this review process, the  3 clinic protocol review process, does  4 anybody pick up the phone and call the  5 doctor and say I'd like to understand why  6 it's clinically appropriate for this  7 patient to have this prescription? Does  8 that happen?  9 MR. LAVELLE: Object to form.  10 A. As a matter of fact, that  11 happens all the time. Our pharmacists  12 have a protocol to reach out to the  13 doctor, 'cause they are the first line  14 there, and determine what the diagnosis  15 is, and we document that in our dispensing  16 system and on the hard copy prescription.  17 But, outside of that, I've done  18 some of these clinical protocols  19 personally with one of my colleagues, and  20 we've reached out to doctors. We've  21 had -- we've met with them. We've made  22 phone calls through them. So, we've done  23 that.  24 Q. That's not described in this</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. But, again, that's at the --  2 your discretion, correct? Whether you  3 make that actual contact with the doctor,  4 right?  5 MR. LAVELLE: Object to form.  6 A. At the end of the day, we follow  7 this clinic protocol. They do the steps  8 that are in here.  9 Q. Okay. I understand.  10 And there's some discretion  11 about how far they go on that about  12 contacting the doctor, right?  13 A. At minimum, the items that are  14 in here. Contacting the doctor is not  15 something that's specified in here. We do  16 it on our end if there is a large concern.  17 Q. How many times did you contact  18 DEA about, you yourself contacted DEA, an  19 instance like this for one of these clinic  20 protocol reviews?  21 A. I --  22 MR. LAVELLE: Object to form.  23 A. I personally have not. This is  24 done by my colleague in the Government</p>
<p style="text-align: right;">Page 127</p> <p>1 clinic protocol, is it?  2 MR. LAVELLE: Object to form.  3 A. This is -- you want to verify  4 them you're at the physical location.  5 They go in and they do that and that's an  6 extra step.  7 Q. But it's at their discretion  8 whether they take that extra step, right?  9 A. If there's no information that  10 requires us to do that, then they may not  11 need to. And most of the times, our  12 pharmacists will know that relationship  13 with that doctor that's there and whether  14 this is somebody that we need to look at  15 or not. And they will report any  16 suspicious activity through our RX  17 tickets.  18 So we've got a lot of  19 information. We've done a lot of training  20 out there for our pharmacists to be able  21 to bubble this information up. If we  22 don't get through a couple of these and  23 say hey, we don't feel good about it, that  24 doesn't happen.</p>	<p style="text-align: right;">Page 129</p> <p>1 Affairs Department.  2 Q. How many times in a clinic  3 protocol review that you participated in  4 did someone in Government Affairs contact  5 the DEA?  6 A. I couldn't give you a specific  7 number.  8 Q. Ten times?  9 A. I'm aware that it happened. I  10 couldn't give you a specific number.  11 Q. You're aware that it happened,  12 what, one time?  13 A. More than once.  14 Q. How many times did the PDM or  15 LPDM contact the DEA about a concern about  16 a -- in this clinic protocol review  17 process?  18 MR. LAVELLE: Object to form.  19 A. I wouldn't be able to quantify.  20 Q. How many times did you contact  21 the doctor? You just talked about that,  22 you said you actually called the doctor.  23 How many times did you do that?  24 MR. LAVELLE: Object to form.</p>

<p style="text-align: right;">Page 130</p> <p>1 A. I've contacted the doctor or I  2 have actually gone to the office with the  3 doctor at least twice.  4 Q. And, what was the triggering  5 event for those two occasions?  6 A. We were looking at different  7 analysis, not specifically to a clinic  8 protocol, but we have some processes in  9 place where we will review our top  10 dispensing doctors in our chain that we  11 get from IMS, a database that we run, and  12 we routinely want to see and make sure  13 that we are doing our due diligence.  14 Q. So, when you said earlier that  15 you actually yourself contacted doctors,  16 it wasn't in conjunction with the clinic  17 protocol review, right?  18 A. We were doing clinic protocol.  19 However, we were developing this process.  20 This is a very new process as we were  21 training this at this time, because we  22 wanted to have even more controls in  23 place. So we took the things that we were  24 doing and putting them back into here so</p>	<p style="text-align: right;">Page 132</p> <p>1 A. This is not a new process for us  2 in the corporate office. We were already  3 doing this. We were reviewing some of  4 this. We wanted to get this into more  5 hands and educate more of our field teams  6 to understand hey, we're going to need  7 some more help from you and to review some  8 of these clinics because we can't, from  9 the corporate office, get to every single  10 location for every single store that may  11 need something.  12 Q. Okay. If you could turn two  13 pages after that, slide with the heading  14 "Rite Aid Distribution Thresholds."  15 Do you see that?  16 A. Yes.  17 Q. And it's Bates ending '37367.  18 You see the first bullet where  19 it says: Similar to McKesson, Rite Aid  20 must have the same types of checks and  21 balances in place to monitor/stop  22 excessive orders of controlled substances.  23 Do you see that?  24 A. Yes.</p>
<p style="text-align: right;">Page 131</p> <p>1 that our field teams could help us be more  2 eyes and ears out in the field.  3 Q. So, here in 2012. Is this a  4 brand new process you're rolling out? Is  5 that right?  6 A. This is not a new process. This  7 is something that we already do. This is  8 now making sure that we have a cascade of  9 information to our field teams to educate  10 them on the structure that we have and the  11 due diligence that we need to take where  12 it's not just you request something and  13 it's going to happen, 'cause we wanted to  14 make sure that we were -- our field teams  15 understood why these things just don't  16 happen.  17 Q. So, you just testified "this is  18 a very new process as we were training at  19 this time." I then went back and asked  20 you if this is a brand new process and you  21 said this is not a new process. Those  22 look like contradictory answers.  23 Can you clarify?  24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Was this a change that Rite Aid  2 had to have the same types of checks and  3 balances as McKesson had?  4 MR. LAVELLE: Object to form.  5 A. Rite Aid had checks and balances  6 already. So, we have ways that we monitor  7 any type of excessive orders that are  8 going out there.  9 Q. So, what you're talking about  10 though is going out and training on the  11 clinic protocol process and getting that  12 information out to the field.  13 Had that actual training and  14 communication to the field been going on  15 prior to what you're doing here?  16 MR. LAVELLE: Object to form.  17 A. All that training has been going  18 on. It's very different when you do it in  19 person and you have that conversation  20 because now it gives them the opportunity  21 to ask questions versus when we do the  22 training, sometimes it's on a  23 computer-based training where we go  24 through this. It's in a policy and</p>

<p style="text-align: right;">Page 134</p> <p>1 procedure. They know it, but we want to          2 make sure we tie up any loose ends if          3 there's any gaps in understanding.          4 Q. So you went out into the field          5 and gave this training.          6 Is that right?          7 A. Yes.          8 Q. You and other people, your          9 colleagues, did this training, or is it          10 just you?          11 MR. LAVELLE: Object to form.          12 A. It was just me if it was in our          13 asset protection trainings in the          14 corporate office when we onboard new          15 district managers because they go through          16 this training every time we get somebody          17 new. It could have been with multiple          18 colleagues in different presentations          19 together as we go through some road shows          20 so that we can get the whole audience          21 base. And, ultimately, it could be by          22 myself or with a partner so that everybody          23 gets this education.          24 Q. What partner?</p>	<p style="text-align: right;">Page 136</p> <p>1 we keep compliance top of mind.          2 Q. What do you mean by top of mind?          3 A. When we call out these specific          4 trainings, we're also reenforcing how          5 important this is. So, it's bringing it          6 back to light so that our teams know this          7 is a big area of focus. We want to make          8 sure that we are operating within policies          9 and procedures.          10 This is, again, an overview of          11 what happens if you've got any questions,          12 but it also is specific topics on things          13 that we want to make sure that everybody's          14 aware of.          15 MR. SIMMER: Could we take a          16 break?          17 MR. LAVELLE: Yes.          18 THE VIDEOGRAPHER: The time is          19 now 11:39 a.m.          20 We're going off the record.          21 (Recess taken.)          22 THE VIDEOGRAPHER: The time is          23 now 11:55 a.m.          24 We are back on the record.</p>
<p style="text-align: right;">Page 135</p> <p>1 A. The person in -- Janet Hart in          2 Government Affairs is actually usually the          3 person that we work with from a          4 distribution threshold perspective.          5 Q. And you felt that the in-person          6 training was more effective than the          7 computer-based training; is that right?          8 A. I think that all forms of          9 training is effective. Again, this opens          10 up the platform for them to ask questions.          11 Instead of well, you know, I can't get my          12 order or this doesn't happen, that doesn't          13 happen, we can now give them some more          14 whys behind it or some more context for          15 education.          16 Q. So, the face-to-face training          17 allowed them to ask questions; is that          18 right?          19 A. Yes.          20 Q. And that's the only reason why          21 it's being used is simply to allow them to          22 ask questions, right?          23 MR. LAVELLE: Object to form.          24 A. We also want to make sure that</p>	<p style="text-align: right;">Page 137</p> <p>1 (Rite Aid - Novack Exhibit 5,          2 email chain ending November 10, 2012,          3 with attachment, Bates No.          4 Rite_Aid_OMDL_00029787 to          5 Rite_Aid_OMDL_00029954, was marked for          6 identification, as of this date.)          7 BY MR. SIMMER:          8 Q. The court reporter is going to          9 hand you what we've marked as Novack          10 Exhibit 5. It's a massive document. I'm          11 going to direct your attention to a few          12 pages in it. You can look at the whole          13 thing. I think it would save us all some          14 time if I could just have you look at the          15 cover email and then direct your attention          16 to these pages starting -- and, you can          17 see, they don't have Bates numbers on it,          18 but the slides themselves have numbers in          19 the lower right-hand corner. If I could          20 direct your attention to slide 125 through          21 149, I think it is.          22 MR. LAVELLE: Counsel, the copy          23 does not have numbers on them. Not          24 only does it not have Bates numbers,</p>

<p style="text-align: right;">Page 138</p> <p>1 it doesn't have slide numbers.</p> <p>2 MR. SIMMER: Did they cut that</p> <p>3 off too?</p> <p>4 On the Power Point slides</p> <p>5 themselves there's not?</p> <p>6 Can we see?</p> <p>7 THE WITNESS: (Handing.)</p> <p>8 MR. SIMMER: It's not on there</p> <p>9 either.</p> <p>10 They successfully ruined this</p> <p>11 exhibit.</p> <p>12 MR. LAVELLE: We'll muddle</p> <p>13 through. You just tell us where we</p> <p>14 need to be and we'll find it.</p> <p>15 MR. SIMMER: So, it's going to</p> <p>16 be about more than halfway through</p> <p>17 probably, and it's the slide that</p> <p>18 begins "Controlled Substance</p> <p>19 Purchasing Limits."</p> <p>20 We can pull it up on the screen</p> <p>21 too.</p> <p>22 If he pulls it up on the screen,</p> <p>23 you can at least eyeball it. It has</p> <p>24 this, the store on it, and that</p>	<p style="text-align: right;">Page 140</p> <p>1 different sections to it, and I'm going to</p> <p>2 have you look at this whole section on</p> <p>3 "Controlled Substance Purchasing Limits."</p> <p>4 And it's roughly what is 24 pages long and</p> <p>5 it goes up to the next section of</p> <p>6 "Pharmacy Robberies." So I'm not going to</p> <p>7 ask you to look at the "Pharmacy</p> <p>8 Robberies" section.</p> <p>9 A. Okay.</p> <p>10 Q. Okay. So, if you just want to</p> <p>11 take a moment and look at the cover email</p> <p>12 and then that section of this exhibit,</p> <p>13 then we can -- I'll ask you some</p> <p>14 questions.</p> <p>15 A. (Perusing document.)</p> <p>16 Q. And while you're doing, that</p> <p>17 I'll identify for the record, and we're</p> <p>18 going to swap in again Bates numbered for</p> <p>19 this.</p> <p>20 MR. SIMMER: The passages I'm</p> <p>21 going to ask her to focus on are</p> <p>22 '29913 through '29936.</p> <p>23 A. (Perusing document.)</p> <p>24 Okay.</p>
<p style="text-align: right;">Page 139</p> <p>1 (indicating).</p> <p>2 He's got it on the screen now.</p> <p>3 MR. WATTS: If someone would</p> <p>4 please read the Bates number into the</p> <p>5 record.</p> <p>6 MR. SIMMER: Be glad to. Trying</p> <p>7 to get her on the same page.</p> <p>8 The exhibit itself I'll identify</p> <p>9 for the record is Novack 5 begins at</p> <p>10 Rite_Aid_OMDL_00029787 through</p> <p>11 '29954.</p> <p>12 (Pause.)</p> <p>13 MR. SIMMER: That's it.</p> <p>14 MR. LAVELLE: Okay. Can I put</p> <p>15 it in front of the witness?</p> <p>16 MR. SIMMER: Yes.</p> <p>17 MR. LAVELLE: Okay.</p> <p>18 MR. SIMMER: Again, I apologize</p> <p>19 for this printing job. It's made our</p> <p>20 jobs a lot more difficult today.</p> <p>21 BY MR. SIMMER:</p> <p>22 Q. So, as I understand this</p> <p>23 exhibit, ma'am, and you may know this from</p> <p>24 having seen it before, but there are</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. I direct your attention to the</p> <p>2 cover email. This is Bates '29787 and</p> <p>3 '29788, and if I -- if you look at this is</p> <p>4 an email string, the first of which is</p> <p>5 from Michael KcKinney to you and Janet</p> <p>6 Hart dated October 13, 2012.</p> <p>7 Do you see where in the body of</p> <p>8 the email, and the subject line is "Thank</p> <p>9 You."</p> <p>10 Do you see where in the body of</p> <p>11 the email he says: Sophia, Janet. On</p> <p>12 behalf of region 22 and 25 we would like</p> <p>13 to thank you for taking time out of your</p> <p>14 busy schedules to spend time with us.</p> <p>15 Do you see that?</p> <p>16 MR. LAVELLE: Object to form.</p> <p>17 A. Yes.</p> <p>18 Q. Can you just -- what's your</p> <p>19 understanding he's responding to here, his</p> <p>20 purpose for writing this email?</p> <p>21 MR. LAVELLE: Object to form.</p> <p>22 A. Janet and I attended one of</p> <p>23 their regional meetings and conducted some</p> <p>24 training.</p>

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1 Q. And, so, you'd given them a  
2 training and he's thanking you for that,  
3 right?  
4 A. Yes.  
5 Q. Okay. He also goes on in the  
6 second paragraph to ask for you to send a  
7 copy of the presentation.  
8 Do you see that?  
9 A. Yes.  
10 Q. Okay. And then there's an email  
11 right above that from Michael McKinney --  
12 actually, no. I'm sorry.  
13 This is to Michael McKinney from  
14 you dated October 15th, right? Or, if I'm  
15 reading this correctly, several days  
16 later, you respond to him, correctly --  
17 correct?  
18 MR. LAVELLE: Object to form.  
19 A. Yes.  
20 Q. And you see in your email you  
21 say: Rob, Garrett, Mike. Thank you for  
22 your hospitality and allowing us the time  
23 to speak with field members -- or, field  
24 leaders. Excuse me. We are in the

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1 process of compiling the answers to some  
2 of the questions and follow-up items we  
3 brought back.  
4 So, you were compiling answers  
5 to questions.  
6 Can you tell us what -- what  
7 you -- what these questions were?  
8 MR. LAVELLE: Object to form.  
9 A. I don't recall.  
10 Q. Would that be something typical  
11 you would have though? When the field  
12 team would ask questions, you would  
13 actually give them written responses back?  
14 A. If it was something that we  
15 couldn't answer while we were there, that  
16 may not be related to us because we're  
17 coming from the corporate office. They  
18 may have something about a system that is  
19 in another department and they just  
20 happened to ask us while we're there  
21 because we coordinate with the Pharmacy  
22 Operations Department or other  
23 departments. We'll take that back, get  
24 them an answer, and then respond back.

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1 Q. Going on then you see where you  
2 say: I've attached a copy of the  
3 presentation for your reference?  
4 A. Yes.  
5 Q. Okay. So, that's in response to  
6 his request, you're giving him a copy of  
7 the presentation itself, right?  
8 A. Yes.  
9 Q. You go on to say: The videos  
10 were too large to send over email so they  
11 have been removed from the presentation.  
12 So, am I right that there were  
13 actual videos included in the  
14 presentation?  
15 MR. LAVELLE: Object to form.  
16 A. Based on this email, yes.  
17 Q. Do you know what those videos  
18 were?  
19 A. I don't recall.  
20 Q. Okay. So, then, can I direct  
21 your attention to the pages I asked you to  
22 look at, the one beginning "Controlled  
23 Substance Purchasing Limits"?  
24 A. Yes.

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1 Q. Is this a part of a presentation  
2 that you would have given?  
3 A. Myself and Janet Hart.  
4 Q. So you -- you gave it together;  
5 is that right?  
6 A. Yes.  
7 Q. Did you give this on more than  
8 one occasion?  
9 A. Yes.  
10 Q. Who are the people that you gave  
11 this presentation to?  
12 A. In this audience, it would have  
13 been the field teams that are there,  
14 pharmacy district managers, district  
15 managers, asset protection district  
16 managers. I'm not sure if there were any  
17 other disciplines there, but the regional  
18 vice presidents and the regional asset  
19 protection director would have been there.  
20 Q. And you gave this presentation  
21 in other situations, right?  
22 A. Yes.  
23 Q. And, to whom did you give the  
24 presentation?



<p style="text-align: right;">Page 146</p> <p>1 A. Same type of audience, our field  2 team, pharmacy district managers, regional  3 vice presidents, new onboarding or  4 existing asset protection district  5 managers.  6 Q. And this is information that --  7 is this new information that you're  8 conveying to the -- the folks that are  9 listening?  10 A. I don't know if there's any new  11 content in here, but a lot of it is  12 repeated from the presentation that we had  13 gone through a little bit earlier.  14 Q. So, is this something that you  15 did regularly is go out and give this kind  16 of training on this material on controlled  17 substance purchasing limits?  18 MR. LAVELLE: Object to form.  19 A. We went out, if there was an  20 opportunity to, for a regional meeting,  21 and we would product -- conduct some sort  22 of training, again to keep a lot of these  23 items top of mind, refresh them, any of  24 the questions they may have.</p>	<p style="text-align: right;">Page 148</p> <p>1 slides that are reflected here?  2 A. I don't understand the question.  3 Q. It wasn't a good question.  4 That's why.  5 I'm just curious to understand  6 in order to -- to decide what information  7 these folks needed to hear, how did you  8 gather the material that you were going to  9 convey to them?  10 MR. LAVELLE: Object to form.  11 A. A lot of times we do our  12 trainings based off of hot topics, what's  13 in the news, what are current trends, some  14 things that we want to refresh that we may  15 have some opportunities on and things that  16 we have seen.  17 Q. Okay. So, other than that,  18 where did you get the material that's  19 included here?  20 A. So, going through this  21 information, it looks like a lot of this  22 material was already previously existing.  23 Some of this material are articles that we  24 had pulled off of different websites to</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. Had the company been doing  2 similar training before you took this  3 position?  4 A. To my knowledge, yes.  5 Q. So this isn't something new,  6 this information you're conveying here; is  7 that right?  8 MR. LAVELLE: Object to form.  9 A. I don't know if there's any new  10 information in here, specifically that  11 they have not seen in the past or that was  12 new for this particular presentation that  13 I had done, but the context of the  14 information or doing these trainings in  15 the field I've attended when I was out in  16 the field when I was a PDM.  17 Q. The slides that I directed your  18 attention to, did you prepare those  19 slides?  20 A. I did. I think I prepared most  21 of it with input from Janet, the other  22 presenter.  23 Q. Okay. And, what did you rely on  24 in order to assemble the content for the</p>	<p style="text-align: right;">Page 149</p> <p>1 talk about the local trends or activity  2 that's out there. Some of this has  3 actually been adopted from a -- a DEA  4 training that we had gone through where  5 the DEA had local trainings for  6 pharmacists in different states that we've  7 attended and they've published their  8 slides that we would utilize too.  9 Q. One of the things you were  10 conveying here, and it's like the last  11 slide deck we looked at, you're sharing  12 information about McKesson's thresholds,  13 right?  14 A. I'm sharing our processes in  15 relation to thresholds for controlled  16 substances we're ordering through  17 McKesson.  18 Q. Well, let me direct your  19 attention to the second page of this  20 section of this exhibit.  21 Do you see where it says  22 "McKesson CSMP"?  23 A. Yes.  24 Q. Where did you get the</p>



<p style="text-align: right;">Page 150</p> <p>1 information about the CSMP? That's the          2 Controlled Substance Monitoring Program          3 that McKesson had.          4 A. This information is already          5 existing from a previous deck that we've          6 created that has our policies and          7 procedures in place.          8 Q. So you're describing the          9 McKesson Controlled Substance Monitoring          10 Program, right?          11 A. We're indicating that there is a          12 Controlled Substance Monitoring Program.          13 Q. And you're describing how it          14 works, right?          15 A. We're describing how it impacts          16 us in our stores so they understand what          17 their limits are when they are ordering          18 controls.          19 Q. Which is how it works, right?          20 A. How it works from the receiving          21 end at the store customer side.          22 Q. Look at the next page "McKesson          23 Thresholds."          24 Again, this is, I think we</p>	<p style="text-align: right;">Page 152</p> <p>1 month.          2 So, in this scenario, a          3 threshold is met for a month. Even if I          4 am not expecting my next order until the          5 next month, if I place that order on the          6 last day of the previous month where my          7 threshold's exceeded, that order will          8 still be omitted.          9 Q. The next slide is Bates ending          10 '29917 "Threshold Accommodations." We          11 talked about a similar slide in the last          12 deck.          13 I want to direct your attention          14 to "Warehouse item out of stock." I think          15 we talked about that in the prior exhibit.          16 Do you see where it says:          17 McKesson will be advised to adjust the          18 threshold to accommodate our business          19 needs.          20 Do you see that?          21 A. Yes.          22 Q. That's the similar concept we          23 talked about earlier, right? Business          24 needs, right?</p>
<p style="text-align: right;">Page 151</p> <p>1 looked at this to some extent earlier.          2 Again there's a description of base code          3 and active ingredient and so on.          4 This is that same information we          5 looked at in the prior exhibit, right?          6 MR. LAVELLE: Object to form.          7 A. This is the same information          8 that's communicated, yes.          9 Q. Look at the next page. It's          10 also entitled "McKesson Thresholds." This          11 one is, the first bullet below that will          12 help you identify it, is: Based on the          13 highest month's movement in the last 12          14 months.          15 Do you see that?          16 A. Yes.          17 Q. And this is Bates ending '29916.          18 I just want to direct your          19 attention to the last large bullet there.          20 You see where it says: Threshold limits          21 are based on the date the medication was          22 ordered.          23 What are you conveying there?          24 A. We're conveying the calendar</p>	<p style="text-align: right;">Page 153</p> <p>1 A. When our store is out of stock          2 and the distribution center cannot supply          3 because they're out of stock and we need          4 to get through a different vendor, we          5 haven't traditionally ordered from them,          6 so their thresholds may limit them on          7 getting what they need for their patients.          8 So that's what we're calling out here.          9 Q. That you have not traditionally          10 ordered from them?          11 MR. LAVELLE: Object to form.          12 A. Items that we order from our          13 warehouse, that's our sole -- primary          14 supplier. If our primary supplier is out          15 of stock, we have to order from McKesson,          16 which is our secondary outside vendor.          17 So, in the situation, if I          18 normally get my supply through the          19 warehouse, I now have to order through a          20 vendor, I may need a temporary adjustment          21 because I haven't traditionally ordered          22 from there.          23 Q. Look two slides later in this          24 section of the exhibit, Bates ending</p>

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1 '29919. "Alerts" is the heading.  
2 Do you see that?  
3 A. Yes.  
4 Q. I think this is a similar slide  
5 as we talked about earlier, and that  
6 alerts is, I think you said earlier, this  
7 is a McKesson alert, right?  
8 A. This is an alert how our stores  
9 will know that they are approaching their  
10 threshold or that they will not be  
11 receiving that product, because a lot of  
12 times, our stores are waiting for that  
13 medication for a patient and they don't  
14 know why it's not coming or what's  
15 happening, is it just not coming in  
16 because somebody didn't order it. But  
17 this will tell them hey, you did order it.  
18 It's just not coming because you're at  
19 that threshold.  
20 Q. Okay. So, does the pharmacy  
21 then receive a notification when they pass  
22 the 75 percent of their threshold for that  
23 month?  
24 A. It's printed on their invoices.

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1 Q. Okay. And then you say in the  
2 second bullet here: Thresholds can be  
3 adjusted for individual base codes.  
4 Do you see that?  
5 A. Yes.  
6 Q. This is a similar concept we  
7 talked about in the prior exhibit, right,  
8 about how you can adjust for business --  
9 individual base codes, right?  
10 MR. LAVELLE: Object to form.  
11 A. This is a threshold that we can  
12 adjust for individual base codes, yes.  
13 Q. And you also say below that:  
14 Requires legitimate business reasons.  
15 That's the same concept we  
16 talked about a moment ago, right?  
17 A. The concept is we need to  
18 evaluate why we have the need for an  
19 increase.  
20 Q. Okay. And again, it requires  
21 the approval from the pharmacy district  
22 manager, right?  
23 A. Yes.  
24 Q. And it's coordinated corporately

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1 through Asset Protection, right?  
2 A. They would have to submit those  
3 requests to me, yes.  
4 Q. And the term "corporately" means  
5 corporate headquarters, right?  
6 A. Yes.  
7 Q. Okay. Turn two pages later,  
8 Bates ending '29921, if you would. This  
9 is "PDM Action For Threshold Increase."  
10 Do you see that?  
11 A. Yes.  
12 Q. And again, PDM is pharmacy  
13 district manager, right?  
14 A. Yes.  
15 Q. And it describes how -- what  
16 information needs to be conveyed for a  
17 threshold increase, right?  
18 A. Yes.  
19 Q. And in the third bullet it says:  
20 Reason for the adjustment.  
21 And we talked about this a bit  
22 ago. The same examples given here, new  
23 pain clinic, et cetera, will need  
24 prescribing MD data for review.

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1 Right?  
2 MR. LAVELLE: Object to form.  
3 A. That tells them that there will  
4 be additional action steps, that's the  
5 reason.  
6 Q. And again, I think you testified  
7 earlier that --  
8 MR. LAVELLE: I think the  
9 witness was not finished answering  
10 before you interrupted her.  
11 MR. SIMMER: Well, John, I  
12 wasn't finished with my question  
13 either. So you're interrupting.  
14 Please stop.  
15 BY MR. SIMMER:  
16 Q. Were you done with answering the  
17 question?  
18 A. I wanted to say that this is an  
19 indication that they will need additional  
20 action if one of the reasons, for example,  
21 is a new clinic type.  
22 Q. And, so, you're just using that  
23 as an example of how this process would  
24 work, right?

<p style="text-align: right;">Page 158</p> <p>1 A. Yes. That it's not automatic  2 just because you give us a reason, you  3 will get a threshold increase.  4 Q. Could you turn two pages later,  5 please? The slide entitled "Legitimate  6 Reason"? And it's Bates ending '29923.  7 Do you see that?  8 A. Yes.  9 Q. Can you tell us what the purpose  10 of this slide is?  11 A. Education to our field team.  12 Q. It almost looks like it's a --  13 an example of an email, right? It looks  14 like the body of an email with the subject  15 line "Re oxycodone," doesn't it?  16 MR. LAVELLE: Object to form.  17 A. It would appear to be, yes.  18 Q. Do you know if you took this  19 from an actual email?  20 A. Yes.  21 Q. So this was a request for a  22 threshold increase that came in and you  23 used that as a teaching example, right?  24 A. Yes. This is an example of</p>	<p style="text-align: right;">Page 160</p> <p>1 seems to be approached by these patients.  2 So, they gave us the different  3 patient -- the prescribers that we're  4 looking at, but those were some of the big  5 ones that immediately said let's take a  6 look at this and let's determine why we're  7 getting this request.  8 Q. So, in this slide presentation,  9 you used this as an example to show the  10 folks in the field that this is a  11 threshold that would not be approved?  12 A. This would be a threshold where  13 we would do our due diligence. This would  14 be we would need to go through a lot of  15 different analytics that we talked about.  16 We would look at our dispensing history.  17 We'd look at these doctors that have  18 already been supplied to us, are they  19 actual prescribers, because ultimately, we  20 want to take a look at the quantities that  21 are being dispensed, how they're  22 dispensing it, and not only is it do we  23 increase this threshold or not, but do we  24 need to do something else from an</p>
<p style="text-align: right;">Page 159</p> <p>1 something that was sent in from a field  2 team requesting a threshold that we wanted  3 to call out.  4 Q. Was it a good example of a  5 threshold increase?  6 A. This was not a good example of a  7 threshold increase.  8 Q. Can you go through all of the  9 things that were wrong with this threshold  10 increase?  11 A. So, we had just attended a lot  12 of different trainings and we talk about  13 red flags for the area. So, a couple of  14 flags that we saw when I was reading this  15 particular email talked about other  16 pharmacies are refusing prescriptions for  17 this patient. So usually indicates hey,  18 why is somebody else turning these  19 patients away?  20 Then other pieces are the  21 doctors and the patients are not from the  22 local geographic area. They are coming in  23 from out of state, from DC, Maryland and  24 Virginia and we're the only pharmacy that</p>	<p style="text-align: right;">Page 161</p> <p>1 education perspective for that field team,  2 so.  3 Q. Okay. Turn to the next page, if  4 you would. This is Bates ending '29924.  5 And this is also "Threshold Increase."  6 Do you see that?  7 A. Yes.  8 Q. This, too, looks like it's taken  9 from an actual threshold increase request,  10 right?  11 MR. LAVELLE: Object to form.  12 MR. SIMMER: Can I just ask you  13 what was objectionable about that,  14 John?  15 MR. LAVELLE: I believe that you  16 were mischaracterizing the -- what the  17 document is.  18 MR. SIMMER: Okay.  19 A. I believe this is an email that  20 was received.  21 Q. So you took this out of an  22 actual threshold increase request, right?  23 A. Yes.  24 Q. And, again, it's an example that</p>

<p style="text-align: right;">Page 162</p> <p>1 you wanted to teach the -- those in          2 attendance at this training about how this          3 process worked, right?          4 A. I wanted to bring awareness to          5 our teams because we have pharmacists that          6 are there taking care of our patients, but          7 they may not be aware of all of the          8 different trends that we are aware of that          9 we hear in the news that we go to DEA          10 conferences about, and this is an example          11 of an education where there's a patient          12 that's requesting all of this medication.          13 Q. So, what about this particular          14 request were you using as an example in a          15 training to teach the attendees?          16 A. We were looking at the quantity          17 of the medications and the type of          18 medications that he was receiving, just          19 the sheer number of tablets that he would          20 be taking over a daily basis. Those would          21 be some things that we wanted to call out,          22 and whether this is the right thing for          23 that patient, because if we're dispensing          24 this type of therapy, as a pharmacist, we</p>	<p style="text-align: right;">Page 164</p> <p>1 treatment and care for this patient as the          2 first time we're encountering this -- this          3 patient, and at the end of the day,          4 whether it was deemed clinically          5 appropriate based off of consulting with          6 our drug information center and some          7 clinical pharmacists.          8 Q. So, this is an example of the          9 kind of clinical review that you were          10 talking about earlier, by looking at the          11 ordering history, right?          12 A. This is an example of a          13 patient-related request for a threshold          14 increase and how we reached out to          15 clinical pharmacists and different teams          16 that we have access to to review this          17 information. Not necessarily dispensing          18 data, but looking for a medical opinion, a          19 clinical professional opinion.          20 Q. Okay. That wasn't exactly my          21 question.          22 Is this the kind of clinical          23 review that we were talking about earlier          24 on the earlier exhibit?</p>
<p style="text-align: right;">Page 163</p> <p>1 want to realize is it possible for our          2 patient to be taking this quantity of          3 medication; is it going to increase their          4 outcomes; or is it going to have more          5 risks for their health; and have we really          6 counseled this patient, work with the pain          7 management team to make sure this is the          8 right therapy before we automatically say          9 we need a lot of increases for different          10 bases for the store.          11 Q. So, if the patient said yes, it          12 is, I need this, you call the doctor and          13 the doctor said yes, this is what I          14 prescribed, what then?          15 A. So, in this particular scenario,          16 I do recall that we had partnered with our          17 clinical pharmacist and our drug          18 information center just to go through a          19 typical patient, is this possible, is this          20 normal, would this be in therapeutic range          21 for a patient, and review this information          22 because this is not a existing customer          23 that we've been servicing. We want to          24 make sure that we're providing the right</p>	<p style="text-align: right;">Page 165</p> <p>1 A. This is --          2 MR. LAVELLE: Object to form.          3 A. This is not a clinic protocol.          4 That's a physical site review about          5 prescribers and store.          6 This is a review on therapy and          7 medical need for this patient and really          8 helping that pharmacist review their          9 professional responsibility.          10 Q. The next slide, if you'd look at          11 that, it's Bates ending '29925 and the          12 heading is "DEA Activity."          13 Do you see that?          14 A. Yes.          15 Q. And then it has an example of a          16 breaking news headline "DEA Serves          17 Suspension Order on Walgreen Distribution          18 Center in Jupiter, Florida."          19 Do you see that?          20 A. Yes.          21 Q. Why were you giving this          22 information to the attendees at this          23 training session?          24 A. An education on what is in the</p>

<p style="text-align: right;">Page 166</p> <p>1 news, what is happening out there, what  2 are some of the problems that we encounter  3 as we are health care providers taking  4 care of our patients and scenarios where  5 we can learn from if it goes wrong.  6 Q. Could you turn to, this is  7 several pages back, and this is going  8 to -- the heading of the slide is "Report  9 Suspicious Activity."  10 For the record, it's Bates  11 ending '29934.  12 Do you see right below that it  13 says: Your pharmacist should report these  14 trends to the PDM.  15 Do you see that?  16 A. Yes.  17 Q. And what are you conveying in  18 this slide?  19 A. So, if they see anything that is  20 a flag, a prescriber that they don't feel  21 comfortable with, somebody that they've  22 already been turning away prescriptions  23 for, a lot of out-of-state activity,  24 anything that they didn't feel comfortable</p>	<p style="text-align: right;">Page 168</p> <p>1 information from a PDM, then they -- we  2 would share it if they needed me to review  3 any information.  4 Q. Okay. And it says under there  5 the PDM is supposed to do certain things,  6 and it says they're to conduct a store  7 visit, gather information, doctor  8 detailing, report to Government Affairs.  9 Can you just walk through what  10 each of those things is?  11 A. If our pharmacy district manager  12 gets a question from our pharmacist, they  13 want to go down and do a store visit and  14 at least be able to talk to our associates  15 to understand what their concerns and that  16 part is our information gathering, get all  17 of the information in relation to why they  18 feel that this is suspicious activity,  19 whether they've got specific doctors,  20 specific clinic sites, what are their  21 dispensing trends, get us as much  22 information as possible so that we can  23 send that up to report to Government  24 Affairs and, if possible, if they do know</p>
<p style="text-align: right;">Page 167</p> <p>1 and they did not fill that prescription  2 because of professional judgment, report  3 that to our pharmacy district managers so  4 that we can funnel that information up so  5 that we know as a corporation if there's  6 something that we can review and put  7 tighter controls on, or at least be able  8 to take a look and if there's something we  9 can do systemically.  10 Q. So, if there was a situation  11 which a pharmacist reported a trend like  12 this to the pharmacy district manager, do  13 they then -- are they obligated or  14 directed they're supposed to be  15 communicating that on up to you in Asset  16 Protection?  17 MR. LAVELLE: Object to form.  18 A. This is reported to Government  19 Affairs, as listed out here.  20 Q. You're not included in that  21 chain?  22 A. They can copy me, but we work in  23 conjunction with the department. So, if  24 Government Affairs had received this</p>	<p style="text-align: right;">Page 169</p> <p>1 where that physician site is, if they can  2 reach out to that doctor.  3 So, doctor detailing is  4 something that we do in the retail world  5 where we go and we let them know hi, you  6 know, I'm Sophia. I'm the pharmacy  7 district manager up the block. I just  8 wanted to let you know that if there's  9 anything that you need, just, you know,  10 reach out to us; what are your  11 disciplines; is there anything that you  12 need us to stock. So that we can at least  13 get into that office, talk to the staff  14 there about our services that we provide  15 that we can take care of patients for, but  16 also to see the operations there and if --  17 have the opportunity to talk to that  18 prescriber so we can get some additional  19 information on the first feel from a  20 boots-on-the-ground perspective so that we  21 can send that to the corporate office.  22 Q. So, that doctor detailing you  23 just described doesn't sound like actually  24 its intent was to review whether there was</p>



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1 any suspicious activity going on in that  
 2 doctor's office, right?

3 A. We don't know what we don't  
 4 know. So, when you walk into that site,  
 5 you'll know if it's a legitimate practice  
 6 or if it's not.

7 I think it's just a baseline of  
 8 whether we feel that that is the normal  
 9 doctor that you and I would go to for our  
 10 annual physical.

11 Q. That wasn't exactly my question.  
 12 I didn't ask it well.

13 It sounds like what the doctor  
 14 detailing is is selling Rite Aid's  
 15 services and not so much looking for  
 16 suspicious activity.

17 Am I right?

18 MR. LAVELLE: Object to form.

19 A. We call that activity or that  
 20 thing that we do, to go out there and  
 21 speak to physicians, doctor detailing  
 22 because we don't want to go and knock on  
 23 the door and say hey, I think you've got  
 24 suspicious patients coming in here and,

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1 'cause it could be a patient or it could  
 2 be a prescriber. We don't know based off  
 3 of the information that we have. That's  
 4 what we're trying to gather. And the best  
 5 way is to let them know that we are the  
 6 local chain here and, you know, here's my  
 7 contact information so that we can gather  
 8 some more information or at least develop  
 9 a relationship where we can ask more  
 10 questions.

11 Q. The next bullet says they're  
 12 supposed to report to Government Affairs.

13 Do you know what information is  
 14 supposed to be reported to Government  
 15 Affairs?

16 A. Anything that they gather. So,  
 17 what they --

18 Q. Anything, good, bad,  
 19 indifferent?

20 A. Yes.

21 Q. Everything gets reported to  
 22 Government Affairs?

23 A. If there is a suspicious  
 24 activity, they do these steps and then

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1 they send the recap up to Government  
 2 Affairs.

3 Q. Even if it's a positive recap,  
 4 it goes to Government Affairs?

5 A. If it was a positive recap, it  
 6 probably wouldn't have been suspicious  
 7 activity.

8 If there was any indication that  
 9 there was suspicious activity and they  
 10 required follow-up, good or bad, the  
 11 information would come up.

12 Q. And it says right below that:  
 13 Death/OD.

14 What is that?

15 A. If a store team is reported from  
 16 whatever source, it may be that they are  
 17 aware of a patient that they had dispensed  
 18 medications to and it resulted in a death  
 19 or that patient had overdosed, we want to  
 20 make sure we're filing a risk management  
 21 claim.

22 Q. Okay. Could I direct your  
 23 attention to the next slide? The heading  
 24 is "Clinic Protocol." And it's, for the

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1 record, Bates ending '29935.

2 A. Okay.

3 Q. I think this is very similar to  
 4 what we looked at in the prior exhibit.

5 Am I right? This is the same  
 6 clinic protocol process you described in  
 7 the prior exhibit we looked at a little  
 8 bit ago?

9 MR. LAVELLE: Object to form.

10 A. Generally, yes. It looks like  
 11 there may have been some changes or edits  
 12 to it, but generally it's the same  
 13 process.

14 Q. What are the changes?

15 A. It looks like they called out  
 16 that we, if possible, take pictures of the  
 17 office if you're in there or outside.

18 Q. And it says covertly.

19 Why covertly?

20 A. When you're on the outside, we  
 21 just want to take a picture. If you're  
 22 inside, it would just be weird if you're  
 23 taking out your camera or your lens and  
 24 just snapping away. So, if possible, we



<p style="text-align: right;">Page 174</p> <p>1 don't want them to go out of their way to  2 do it, but if they can and there's  3 something that they see that seems off,  4 take a picture of it.  5 Q. Again, I'll just ask you a few  6 questions about the fourth bullet:  7 Contact local DEA/BOP/medical board to  8 inquire about complaints/issues/concerns.  9 I think that's verbatim what we  10 talked about in the prior exhibit, right?  11 A. Yes.  12 Q. I just want to make sure, do you  13 know of any instance when there had been a  14 contact to the DEA as a part of a clinic  15 protocol?  16 A. I do know that there has been  17 contacts with the DEA.  18 Q. Okay. And by whom?  19 A. I know Janet has made calls out  20 to our contacts in different boards or  21 DEAs.  22 Q. Do you know where the pharmacies  23 were located?  24 A. Not offhand, no. I'm not aware.</p>	<p style="text-align: right;">Page 176</p> <p>1 if something has or has not been done.  2 Q. Okay. What about in Cleveland,  3 Ohio, any reports in this clinic protocol  4 process there? Do you know anything about  5 that?  6 MR. LAVELLE: Object to form.  7 A. Not in my department. I am not  8 aware if anything has or has not been  9 done.  10 Q. Could you turn to the next page,  11 please? This, too, is entitled "Clinic  12 Protocol," and it's Bates ending '29936.  13 Are you on the same slide with  14 me?  15 A. Yes.  16 Q. And it says: Deemed clinically  17 appropriate. And there's some information  18 conveyed there.  19 So, is this a description of the  20 process to -- to determine whether the  21 business is clinically appropriate, right?  22 A. This is to determine if we were  23 going to increase the threshold.  24 Q. Okay. And, the first thing it</p>
<p style="text-align: right;">Page 175</p> <p>1 Q. Okay. Do you know if there were  2 any reports to the DEA for Ohio, Michigan,  3 Illinois, Florida or West Virginia?  4 MR. LAVELLE: Object to form.  5 A. I'm not aware of any reports  6 were made.  7 Q. What about just Ohio itself, do  8 you know of any reports for the clinic  9 protocol in Ohio?  10 A. It would not have been done by  11 me, so I could not speak to it. I don't  12 know.  13 Q. What about Summit County, Ohio,  14 do you know about any reports in Summit  15 County, Ohio?  16 MR. LAVELLE: Object to form.  17 A. Again, not something that I  18 would have done. So I'm not aware if it  19 has or has not been done.  20 Q. What about Cuyahoga County,  21 Ohio, any reports in this clinic protocol  22 process there?  23 MR. LAVELLE: Object to form.  24 A. Not my department. I don't know</p>	<p style="text-align: right;">Page 177</p> <p>1 says you're to assess the volume of new  2 business generated.  3 How is that relevant?  4 A. That's going to determine what  5 the threshold increase request will be.  6 Q. So, help me understand that.  7 So, if it's a very large  8 threshold increase, that volume of  9 business is a good thing or a bad thing?  10 MR. LAVELLE: Object to form.  11 A. It's neither a good or bad  12 thing. It's what the patients need.  13 Q. But, again, I'm trying to  14 understand how the volume of new business  15 generated is relevant to determine  16 clinical -- whether it's clinically  17 appropriate to increase the threshold.  18 A. So, the context is once we have  19 deemed that the threshold increase is  20 clinically appropriate, they need it and  21 we're going to authorize a threshold  22 increase request, we have to assess how  23 much is needed for them to take care of  24 those patients. So, we don't just open up</p>

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1 the floors and say you can order as much  
2 as you need. We want to see, well, how  
3 many patients would this person see and  
4 what would be a reasonable threshold to  
5 accommodate these new patients that are  
6 coming in. So that's what we're looking  
7 at from a generated perspective because we  
8 have to determine what -- what base codes  
9 and what threshold increase amount so that  
10 we're not just taking everything off the  
11 ceilings and saying order what you want  
12 and then we'll fix it later. We want to  
13 do it strategically ahead of time.

14 Q. So, if the pharmacy district  
15 manager comes in and says I need, just  
16 pick a number, 30 percent increase, what  
17 the expectation here is, okay, I need to  
18 know how many patients and what their  
19 prescribing needs are to understand why  
20 you need 30 percent.

21 Is that a fair description of  
22 what you just talked about?

23 MR. LAVELLE: Object to form.

24 A. Can you repeat that?

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1 Q. Probably not.

2 MR. SIMMER: I think I'll have  
3 to have the court reporter read it  
4 back. How is that?

5 (The requested portion of the  
6 record was read by the Court Reporter.)

7 MR. LAVELLE: Same objection.

8 A. No. We would have done that  
9 clinically appropriate or deemed whatever  
10 it is prior to us getting to this phase.  
11 So, this phase is once we know that there  
12 is a legitimate need, we need to service  
13 these patients in this market and we've  
14 got to assess a volume. If we think that  
15 this is going to increase our script count  
16 by, let's say, five percent, then how much  
17 of that would be in this particular  
18 control base and how many tablets do we  
19 want to add into that threshold.

20 So, the clinically appropriate  
21 piece is the first part of it. This part  
22 is really just evaluating the limits that  
23 we need to increase.

24 Q. Okay. You used a term there I'm

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1 not sure you've used prior. You said this  
2 particular control base.

3 What is that?

4 A. Just the base code for that  
5 controlled substance item.

6 Q. Okay. Direct your attention to  
7 the very last page of the entire deck. I  
8 think that should be easy for you to find.

9 A. Yes.

10 Let me just keep this in order.

11 Q. Actually, second to last page.  
12 Sorry. Not -- not the ones that I -- of  
13 the entire exhibit. Not -- yes, there you  
14 are.

15 A. Okay.

16 Q. You see your name there?

17 A. Yes.

18 Q. Okay. And, so, you're directing  
19 people if they had questions they could  
20 call you.

21 Is that right?

22 A. Yes.

23 Q. So, what kind of questions did  
24 you get when you made this offer that

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1 people should call you?

2 A. I don't recall offhand what type  
3 of questions.

4 Q. Did you get questions?

5 A. I don't remember.

6 Q. Okay.

7 A. From this presentation, I don't  
8 remember.

9 MR. SIMMER: This is a good time  
10 for our lunch break, if that's okay.

11 MR. LAVELLE: Okay.

12 MR. SIMMER: Go off the record.

13 THE VIDEOGRAPHER: The time is  
14 now 12:38 p.m.

15 We are going off the record.  
16 (Luncheon recess taken.)

17 - - -

18 A F T E R N O O N S E S S I O N

19 - - -

20 THE VIDEOGRAPHER: The time is  
21 now 1:29 p.m.

22 We are back on the record.

23 MR. SIMMER: So, we'd like to  
24 just put on the record that we're

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1 going to be using a few exhibits that  
2 actually came out of the McKesson  
3 production, and this is something  
4 that's been a regular subject in other  
5 depositions.  
6 And the protocol we would  
7 suggest is this. And this is dealt  
8 with in CMO-2 33(h). That to the  
9 extent that the deponent authored,  
10 prepared or previously reviewed or  
11 received the information, it can be  
12 used in a deposition even though it  
13 came out of another defendant's  
14 production.  
15 So, our proposal is that for  
16 these exhibits, and they're all  
17 McKesson exhibits, no other defendant,  
18 we'll send them to McKesson's counsel.  
19 And those communications or exhibits  
20 where Ms. Novack is on the entire  
21 email string, we propose to introduce  
22 that exhibit into evidence without any  
23 changes whatsoever, but some of the  
24 exhibits the parties -- the McKesson

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1 employees then go on and have a  
2 back-and-forth interchange in which  
3 Ms. Novack was not included. How  
4 we've handled that is to simply redact  
5 all of that in the spirit of the  
6 CMO 33(h).  
7 So, if there are any concerns  
8 about that, we'd like to go ahead and  
9 get that on the record now. If that  
10 proposal is acceptable, get that on  
11 the record as well.  
12 MS. CHARLES: So, this is Amber  
13 Charles for McKesson Corporation.  
14 I will note that our  
15 understanding of the CMO is that for  
16 documents where Ms. Novack does not  
17 appear, we should have been granted an  
18 opportunity several days ago to review  
19 those documents and essentially allow  
20 their use in an unredacted format.  
21 There may well be, I haven't seen the  
22 documents, but there well may be an  
23 interest of completeness.  
24 You know, it is in McKesson's

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1 interest that the document be  
2 introduced, but we are where we are.  
3 So I'm happy to take a look at those  
4 documents and I will lodge any  
5 objections for the record.  
6 MR. SIMMER: And for the record,  
7 we have just sent you those documents.  
8 If you want us to go off the record  
9 right now so you can review those  
10 documents and you can come back on and  
11 make your objections, or we can  
12 continue on with the questioning and  
13 you can lodge your objection as to  
14 each exhibit as it's entered into the  
15 examination.  
16 MS. CHARLES: Well, I agree with  
17 your reading of the CMO as it relates  
18 to documents where Ms. Novack is on.  
19 So I'm happy for you -- I don't want  
20 to hold up everyone's day. So I'm  
21 happy for you to proceed.  
22 And as for the documents where  
23 you've made redactions, I will have to  
24 take a look and I'll email your

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1 colleague back. I think that might be  
2 the sufficient way.  
3 MR. SIMMER: Okay. Let's  
4 proceed that way. And if, for some  
5 reason, you have concerns, we can deal  
6 with that at the time.  
7 MS. CHARLES: Right.  
8 (Rite Aid - Novack Exhibit 6,  
9 email chain ending September 16, 2011,  
10 Bates No. MCK\_MDL\_00632923 to  
11 MCK\_MDL\_00632925, was marked for  
12 identification, as of this date.)  
13 BY MR. SIMMER:  
14 Q. The court reporter is handing  
15 you what she has marked as Novack  
16 Exhibit 6.  
17 MR. SIMMER: I'll identify it  
18 for the record as MCK\_MDL\_00632923  
19 through '632925. And for the record  
20 too, this is an email string. The  
21 first in the string, which is on the  
22 third page, is an email dated  
23 September 12th, 2011 from Jenna  
24 Nichols at McKesson to a group of

<p style="text-align: right;">Page 186</p> <p>1 individuals, including Ms. Novack, and  2 her maiden name is Lai, and the  3 exhibits, the original email, was sent  4 to her. And then the string then  5 continues on over several days. And  6 then the last one is actually from Ms.  7 Novack dated September 16, 2011. So  8 the entire string includes the  9 witness, even though it's a McKesson  10 document.  11 BY MR. SIMMER:  12 Q. Could I -- ma'am, have you had a  13 chance to just glance at this?  14 A. I'm looking through it now.  15 Q. Pardon?  16 A. I said I'm looking through it  17 now.  18 Q. Okay.  19 A. (Perusing document.)  20 Okay.  21 Q. I direct your attention to the  22 email that began this -- begins this  23 string from Ms. Nichols to you and other  24 individuals. It's the one dated September</p>	<p style="text-align: right;">Page 188</p> <p>1 Special Master Polster Kelly has  2 ruled in previous depositions that he  3 attended we are able to state the  4 basis for our objection.  5 BY MR. SIMMER:  6 Q. You can answer.  7 A. This report is provided to us  8 daily. It's an automatic report that  9 showed what our thresholds were being  10 approached by some stores.  11 Q. So, on the 12th -- is it every  12 day of the month the report comes through?  13 A. I don't recall specifically. I  14 believe it was daily. I forget if it's  15 during the business days or if it's  16 weekends also.  17 Q. And you had begun your job as a  18 director of Pharmacy Loss Prevention the  19 prior month; is that right?  20 A. The end of August.  21 Q. So, how is it that you at  22 Rite Aid were using the CSMP reports?  23 A. We received them and we received  24 them as a daily report. We didn't</p>
<p style="text-align: right;">Page 187</p> <p>1 12, 2011 at 9:45 a.m.  2 A. Yes.  3 Q. And you see where she says:  4 Team, Please see the attached daily CSMP  5 report for Rite Aid. Let me know if we  6 need to make any adjustments to the  7 current thresholds.  8 Do you see that?  9 A. Yes.  10 Q. Can you just explain what the  11 process here is that she's talking about  12 here, the daily CSMP report?  13 MS. CHARLES: Objection;  14 foundation.  15 MR. SIMMER: That's an improper  16 objection.  17 MS. CHARLES: I'm sorry. I  18 didn't realize you were asking her a  19 question about McKesson conversations.  20 She is not a McKesson employee.  21 MR. SIMMER: The objection is as  22 to form.  23 MS. CHARLES: Form or  24 foundation.</p>	<p style="text-align: right;">Page 189</p> <p>1 necessarily take any actions with  2 reviewing thresholds or requesting  3 adjustments at that point.  4 Q. I direct your attention to the  5 next email sent at 12:45 p.m.  6 Actually, let me skip that.  7 The email that is sent at 1:51  8 p.m. from Ms. Nichols to you. It's in the  9 middle of the page.  10 Do you see where I'm talking?  11 A. Yes.  12 Q. You see where she says: Hi  13 Sophia. Would you be able to provide more  14 information regarding the oxycodone  15 demands at store 3182, please? Michael  16 Oriente is requesting this information.  17 Do you see that?  18 A. Yes.  19 Q. And, do you know who Michael  20 Oriente is?  21 A. Yes.  22 Q. Who is he?  23 A. He works for McKesson.  24 Q. And the email right above that</p>

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1 is your email to a Mary Menegay.  
2 Did I pronounce her name  
3 correctly?  
4 A. Yes.  
5 Q. And, who is she?  
6 A. She's the district manager in  
7 that location, pharmacy district manager.  
8 Q. And your email is at 2:13 p.m.  
9 So just about 20 minutes later. You say:  
10 Hi Mary. Story 3182 is hitting their  
11 oxycodone ordering threshold through  
12 McKesson very early in the month. Please  
13 reach out to the store and see why they  
14 are placing large orders and if it's  
15 needed.  
16 Do you see that?  
17 MR. LAVELLE: Object to form.  
18 A. I see that.  
19 Q. Did I read that correctly?  
20 A. Yes.  
21 Q. And, what is it you're  
22 requesting Mary do here?  
23 A. I'm requesting for her to take a  
24 look and review with the store if this is

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1 a necessary amount that they're ordering.  
2 Q. So, is this part of that  
3 threshold review process that we had some  
4 testimony about this morning?  
5 A. So, this is something I looked  
6 at in September. I was very new to the  
7 role, so this is probably one of my first  
8 instances with reviewing thresholds and I  
9 had asked her for some more information,  
10 as she was ask -- as we were getting asked  
11 from McKesson.  
12 Q. And Mary is the district manager  
13 that is in charge of this particular  
14 pharmacy 3182, correct?  
15 A. She is a pharmacy district  
16 manager. Based off of the email directing  
17 to her, my assumption is she was  
18 responsible for that store at the time.  
19 Q. Okay. And later that day, 4:16  
20 p.m., she sends you an email and saying:  
21 The orders are needed. There is increased  
22 activity from a local pain management  
23 doctor. CX who were previously filling at  
24 store 3151 are now coming to 3182. Can

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1 the threshold be increased?  
2 Do you see that?  
3 A. Yes.  
4 Q. What is CX?  
5 A. Customers.  
6 Q. So, we went through a couple  
7 exhibits this morning about the threshold  
8 increase process.  
9 A. Yes.  
10 Q. Is that what she's doing here?  
11 A. She's reviewing the information.  
12 MS. CHARLES: Object to form.  
13 A. She's reviewing the information  
14 from the store and she's providing that  
15 information to me.  
16 Q. And you re -- you see the email  
17 at the top of the page at 5:16 p.m. back  
18 to her you say: Yes, but I will need the  
19 MD's name, DEA number and practice site.  
20 I will also need the percentage increase  
21 you would like to request for the store.  
22 Did I read that correctly?  
23 A. Yes.  
24 Q. Now, is this the process that

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1 you were talking about here about getting  
2 more information in order to begin your  
3 due diligence on the threshold increase?  
4 MR. LAVELLE: Object to form.  
5 A. So, this is information that we  
6 were requesting so that I can review. The  
7 information that we are presented in the  
8 presentations previously are as we go  
9 through more and more of these, we had  
10 streamlined and made our review process  
11 even more efficient.  
12 Q. So had we begun the protocol,  
13 the clinic protocol yet at this point?  
14 A. The clinic protocol document  
15 that we had sent out for each PDM to  
16 review and do was not typed up into a form  
17 for us to put out there at this time. But  
18 we were doing facets of it so that at that  
19 point when we were doing the training, we  
20 wanted to make it standardized. Instead  
21 of in different places as we were going  
22 through these processes, we made sure we  
23 had a standardized way to look at these  
24 the same way every time even if I was no



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1 longer in position.  
2 Q. So, in September 2011, you did  
3 not actually have this protocol form that  
4 you talked about earlier, right?  
5 A. Not the form typed out. In --  
6 on the side that we were working on for  
7 McKesson. So, separate from our supply  
8 chain and the processes that we were doing  
9 through the supply chain, this is  
10 McKesson, and for McKesson threshold  
11 reviews, we didn't have a specified clinic  
12 protocol form, but we were following those  
13 processes.  
14 Q. When did the clinic protocol  
15 form for McKesson get put in place?  
16 MS. CHARLES: Objection;  
17 foundation.  
18 THE WITNESS: Does that mean  
19 I --  
20 MR. LAVELLE: If you understand  
21 the question, you should answer it.  
22 A. Can you repeat the question?  
23 Q. When did the clinic protocol  
24 form for McKesson get put in place?

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1 MS. CHARLES: Same objection.  
2 A. The clinic protocol form, I  
3 don't remember exactly when we put it to a  
4 piece of paper and started sending it out  
5 as a specified detailed checklist for them  
6 to do for us. I can't give you the exact  
7 date.  
8 Q. But it's correct that it was not  
9 in place at this time?  
10 A. We didn't have that checklist in  
11 a paper form to send out at this time.  
12 Q. Could you look at the next in  
13 the email string. Ms. Menegay responds to  
14 you the next day at 8:39 a.m.  
15 Do you see that?  
16 A. Yes.  
17 Q. And she gives the name of the  
18 doctor, Dr. Adolph Harper, Junior.  
19 Do you see that?  
20 A. Yes.  
21 Q. [REDACTED] birth  
22 place Memphis, Tennessee, birth county  
23 practice 2569 Romig Road, Suite 201,  
24 Akron, Ohio, 44320.

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1 Do you see that?  
2 A. Yes.  
3 Q. And you also see where it has  
4 his residence as Copley, Ohio 44320,  
5 County Summit. Professional education  
6 school 025010 University of Mississippi  
7 School of Medicine, graduated 03/04/76.  
8 Do you see that?  
9 A. Yes.  
10 Q. And then also below that it has  
11 license and registration information,  
12 credential license type, initial licensure  
13 date, expiration date status, and it has  
14 [REDACTED] doctor of medicine, 02/14/1980,  
15 10/01/2012 active, [REDACTED] alternate  
16 supervising physician 01/31/2009 inactive.  
17 Just on that license and  
18 registration information, if you could,  
19 can you explain what that information is  
20 conveying?  
21 MR. LAVELLE: Object to form.  
22 A. Here it shows that they have an  
23 active doctor of medicine to practice  
24 license there and an alternate supervising

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1 physician, that license is inactive 2009.  
2 Q. So this shows that the license  
3 is inactive, correct?  
4 A. It shows that they have an  
5 active license doctor of medicine.  
6 Q. But the alternate supervising  
7 physician part of it is inactive.  
8 Is that right?  
9 A. That may be another license that  
10 he has or a certification that he has  
11 that's no longer active, but he does have  
12 a license to practice medicine.  
13 Q. Okay.  
14 A. Active.  
15 Q. And right below that, Ms.  
16 Menegay says: Please increase 15 percent.  
17 Do you see that?  
18 A. Yes.  
19 Q. Has she in her email given any  
20 explanation, reason for the increase?  
21 A. Her explanation was in the  
22 previous email, that we have customers  
23 that are coming to this location.  
24 Q. Is that a legitimate reason?



<p style="text-align: right;">Page 198</p> <p>1 A. This is the reason that she's          2 giving me that she needed an increase.          3 Q. But in that slide presentation          4 we looked at this morning, you had two          5 examples of what you -- you were giving to          6 the attendees of reasons that were          7 legitimate.          8 I'm asking is -- is what she's          9 giving here, is that a legitimate reason          10 for a threshold increase of 15 percent?          11 MR. LAVELLE: Object to form.          12 A. So, what we talked about this          13 morning, a legitimate reason required a          14 lot of analysis and review on the back          15 end, which does not portray what we were          16 looking at here. And to refer back to          17 something from 2011, I don't know if at          18 the time we felt that that was legitimate          19 or not. I would need to see my records          20 and see what else we had done in relation          21 to this review.          22 Q. So, is it the case that what was          23 a legitimate reason at Rite Aid changed          24 over time?</p>	<p style="text-align: right;">Page 200</p> <p>1 MR. LAVELLE: Object to form.          2 A. Whether it's legitimate or not,          3 again, the term is determined by a lot of          4 different information. So, the legitimacy          5 doesn't change. It's what we have looked          6 at.          7 And, in this particular case, I          8 don't have much to look at except for this          9 email. So I can't answer that question          10 whether I had determined this was          11 legitimate or not based off of that          12 specific email that she had sent me or if          13 I had different conversations with her.          14 So, I'm not too sure if that is          15 what you're asking.          16 Q. Do you recall this situation?          17 A. I don't recall the situation          18 specifically, no.          19 Q. Okay. Her email right above          20 that at 12:02 later that same day, 12:02          21 p.m., do you see where you say: Hi Mary.          22 Need DEA number for physician and then          23 I'll be able to send in. Thanks. Sophia.          24 Do you see that?</p>
<p style="text-align: right;">Page 199</p> <p>1 MR. LAVELLE: Object to form.          2 A. The legitimate reason is based          3 upon the results of our review over a lot          4 of different flags that we look for. So,          5 it's not just one sentence that she would          6 send up and say I've got customers and          7 that's a legitimate reason. It's not I've          8 got this particular site that's opening up          9 and I'm getting a lot of business is a          10 legitimate reason.          11 So, for me to determine if,          12 based off of this, I said that this was          13 legitimate or not, I'd have to look at the          14 rest of the context of information that we          15 had looked at that may not be portrayed in          16 this email.          17 Q. That's not what you just          18 testified. You said, I'll read it          19 directly out of the transcript: "And to          20 refer back it something from 2011, I don't          21 know if at the time we felt that was          22 legitimate or not."          23 My question is does what was          24 legitimate or not change over time?</p>	<p style="text-align: right;">Page 201</p> <p>1 A. Yes.          2 Q. You don't ask her for any kind          3 of reason of any kind, do you, beyond what          4 she already articulated in the prior          5 email, right?          6 MR. LAVELLE: Object to form.          7 A. I can't recall if I've asked her          8 outside of an email.          9 Q. Beyond what's in this email, do          10 you have any recollection of asking Mary          11 for any additional information about Dr.          12 Harper and this particular situation?          13 A. I don't recall this particular          14 situation or this email. So I don't          15 recall if I had done something differently          16 outside of this email in relation to          17 asking her.          18 Q. Let me then point you to the          19 email right above that from you to Jenna          20 Nichols at McKesson, copying Michael          21 Oriente later that day at 3:23 p.m. So          22 three hours later.          23 You see where you say: Hi          24 Jenna. Here's the information requested.</p>

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1 The PDM would also like to request a 15  
 2 percent increase for base code oxycodone.  
 3 Thanks, Sophia.  
 4 Do you see that?  
 5 A. Yes.  
 6 Q. So, here you are with the  
 7 information that Mary's given you going  
 8 back to McKesson and asking for a 15  
 9 percent increase, right?  
 10 A. Correct.  
 11 Q. Are you familiar with Dr.  
 12 Harper?  
 13 A. Not personally.  
 14 (Rite Aid - Novack Exhibit 7,  
 15 pleading in Case No. 5-14CR096, was  
 16 marked for identification, as of this  
 17 date.)  
 18 BY MR. SIMMER:  
 19 Q. I'll identify for the record  
 20 that the court reporter has handed you  
 21 Exhibit 7, Novack 7. It's a pleading  
 22 styled United States of America versus  
 23 Adolph Harper, Junior, et al. The -- this  
 24 is Case No. 5-14CR096. The time stamp is

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1 March 25th, 2014. The document is -- it's  
 2 an indictment and it's 36 pages long.  
 3 Have you seen this before?  
 4 A. No, I have not.  
 5 Q. Refresh your recollection about  
 6 Dr. Harper?  
 7 A. I don't recall seeing this.  
 8 Q. Let me read you just from the  
 9 introduction section, paragraph number 1:  
 10 From on or about September 1, 2009 and  
 11 continuing through on or about May 18,  
 12 2012, the defendants, Adolph Harper,  
 13 Junior, Adria Harper, Patricia Laughman,  
 14 Tequila Barry, and others, (collectively  
 15 the Harper Drug Trafficking Organization  
 16 or "Harper DTO") agreed to illegally  
 17 distribute hundreds of thousands of doses  
 18 of prescription painkillers to customers  
 19 located in the Northern District of Ohio  
 20 and elsewhere.  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. Have you ever heard of this  
 24 before?

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1 A. I don't recall the specific  
 2 situation. I may have heard of something  
 3 about this, but didn't recall the name of  
 4 the doctor.  
 5 Q. I direct your attention to page  
 6 8, paragraph 21 under the offense. See  
 7 where it says: Beginning at least on or  
 8 about September 1, 2009 and continuing  
 9 through on or about May 18, 2012, the  
 10 exact dates to the grand jury unknown, in  
 11 the Northern District of Ohio, Eastern  
 12 Division, Adolph Harper, Junior, Adria  
 13 Harper, Patricia Laughman and Tequila  
 14 Barry, the defendants herein, and others  
 15 known and unknown to the grand jury, did  
 16 unlawfully, knowingly and intentionally  
 17 combine, conspire, confederate and agree  
 18 together and with each other, and with  
 19 diverse others known and unknown to the  
 20 grand jury, to knowingly and intentionally  
 21 distribute and dispense oxycodone,  
 22 oxymorphone, methadone and amphetamines,  
 23 Schedule II controlled substances,  
 24 buprenorphine, hydrocodone, Schedule III

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1 controlled substances, and alprazolam and  
 2 zolpidem, Schedule IV controlled  
 3 substances, outside the usual course of  
 4 professional practice and not for a  
 5 legitimate medical purpose, contrary to  
 6 and in violation of Title 21, U.S. Code  
 7 Sections 841(a)(1), (b)(1)(C), (b)(1)(E),  
 8 and (b)(2) and 846.  
 9 Do you see that?  
 10 MR. LAVELLE: Object to form.  
 11 A. Yes.  
 12 Q. Have you ever heard of this  
 13 before?  
 14 A. These sections?  
 15 Q. This description about Dr.  
 16 Harper and his confederates?  
 17 A. No.  
 18 Q. I direct your attention to  
 19 paragraph 25.  
 20 On the top of page 10: It is  
 21 further part of the conspiracy that Adolph  
 22 Harper, Junior distributed "prescription"  
 23 to customers who he knew had tested  
 24 positive for illegal controlled substances

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1 during the customer's appointment.  
2 Did I read that correctly?  
3 A. Yes.  
4 Q. Did you hear of this before?  
5 A. No.  
6 Q. Paragraph 26: It was further  
7 part of the conspiracy that Adolph Harper,  
8 Junior distributed prescriptions -- excuse  
9 me. Quote, prescription, close quote, for  
10 controlled substances to customers after  
11 he learned that the customer had overdosed  
12 on controlled substances.  
13 Did you see that?  
14 A. I see that here.  
15 Q. Have you heard of this before?  
16 A. No.  
17 Q. Paragraph 26: It was further  
18 part of the conspiracy that Adolph Harper,  
19 Junior continued to distribute  
20 "prescriptions" for controlled substances  
21 after he learned that some of his  
22 customers had died from overdose-related  
23 deaths.  
24 Do you see that?

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1 A. Yes.  
2 Q. And one of the documents we  
3 looked at this morning talked about  
4 overdoses as one of the things that you  
5 were on the lookout for and would make  
6 sure would be reported, right, to the --  
7 to the DEA?  
8 MR. LAVELLE: Object to form.  
9 BY MR. SIMMER:  
10 Q. Remember that?  
11 A. I said if a customer that we had  
12 dispensed to overdosed and we were aware  
13 of it, then that is our procedure, we  
14 should file a net claim.  
15 Q. Look at paragraph 31 at the  
16 bottom of the page: It was further part  
17 of the conspiracy that Harper DTO posted  
18 in Adolph Harper Junior's "medical" office  
19 a list of pharmacies that were likely to  
20 fill Adolph Harper, Junior's  
21 "prescriptions."  
22 Did you see that?  
23 A. Yes.  
24 Q. Have you heard of that before?

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1 A. No.  
2 Q. Look at the next paragraph,  
3 paragraph 32: It was further part of the  
4 conspiracy that Adria Harper and Tequila  
5 Barry completed patient treatment notes  
6 for some of Harper DTO's customers before  
7 the customers arrived at the office for an  
8 appointment.  
9 Do you see that?  
10 A. Yes.  
11 Q. Paragraph 33: It was further  
12 part of the conspiracy that members of the  
13 Harper DTO wrote the same diagnosis for  
14 several of the Harper DTO's customers  
15 regardless of the customer's  
16 individualized medical needs.  
17 Did you see that?  
18 A. I see it here.  
19 Q. Paragraph 34: It was further  
20 part of the conspiracy that Adria Harper,  
21 Patricia Laughman and Tequila Barry wrote  
22 "prescriptions" for controlled substances  
23 in their names and the names of their  
24 friends and family members.

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1 Do you see that?  
2 MR. LAVELLE: Object to form.  
3 A. I see it here.  
4 Q. Have you heard of any of this  
5 prior to today?  
6 A. No.  
7 (Rite Aid - Novack Exhibit 8,  
8 press release dated October 20, 2014,  
9 was marked for identification, as of  
10 this date.)  
11 BY MR. SIMMER:  
12 Q. The court reporter has handed  
13 you what she's marked Exhibit 8. I'll  
14 identify it for the record as a press  
15 release from the United States Attorney's  
16 Office for the Northern District of Ohio  
17 dated October 20, 2014, a two-page  
18 document. The headline is "Akron Doctor  
19 Pleads Guilty to Illegally Prescribing  
20 Painkillers."  
21 Do you see that?  
22 A. Yes.  
23 Q. Did you ever hear of Dr. Harper  
24 pleading guilty to illegally prescribing

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1 painkillers?  
2 MR. LAVELLE: Object to form.  
3 Objection; asked and answered.  
4 A. Not that I recall.  
5 Q. I direct your attention to the  
6 fifth paragraph.  
7 Do you see where it says:  
8 Together they distributed hundreds of  
9 thousands of doses of prescription  
10 medications, including OxyContin,  
11 Percocet, Roxicet, Opana and others, from  
12 Adolph Harper's medical offices in Akron  
13 between 2009 and 2012, according to court  
14 documents.  
15 Do you see that?  
16 MR. LAVELLE: Object to form.  
17 A. I see it here.  
18 Q. Have you ever heard of this  
19 before?  
20 A. Aside from the document you just  
21 read.  
22 Q. Look at the last paragraph on  
23 this page: Adolph Harper's customers,  
24 many of whom were drug addicts exhibiting

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1 clear signs of drug addiction during their  
2 visits to this office, came to his office  
3 and received "prescriptions" for addictive  
4 prescription medications without being  
5 examined by Harper and often without  
6 seeing him at all, according to court  
7 documents.  
8 Do you see that?  
9 A. Yes.  
10 Q. Are you aware at all that Dr.  
11 Harper pled guilty and any of this  
12 information conveyed I just read?  
13 MR. LAVELLE: Object to form.  
14 Objection; asked and answered.  
15 A. Outside of this release, I don't  
16 recall anything specific to this doctor.  
17 (Rite Aid - Novack Exhibit 9,  
18 Cleveland.com article dated February  
19 13, 2015, was marked for  
20 identification, as of this date.)  
21 BY MR. SIMMER:  
22 Q. The court reporter has handed  
23 you what she's marked as Novack Exhibit 9.  
24 I'll identify it for the record as an

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1 article in the Cleveland.com dated, it's  
2 February 2015 -- February 13, 2015,  
3 written by Eric Heisig entitled "Akron  
4 Doctor Who Illegally Prescribed  
5 Painkillers Sentenced to Ten Years in  
6 Prison."  
7 Have you ever heard of this  
8 doctor getting sentenced to ten years in  
9 prison?  
10 A. I don't recall this specific  
11 doctor.  
12 Q. Let me direct your attention to  
13 the first paragraph: Akron, Ohio. A  
14 former Akron doctor who doled out hundreds  
15 of thousands of prescription painkillers  
16 without any medical purpose will spend up  
17 to ten years in a federal prison.  
18 Do you see that?  
19 A. Yes.  
20 Q. I take it your answer would be  
21 the same if I ask again you've never heard  
22 of this before, right?  
23 A. I don't recall this.  
24 MR. LAVELLE: Object to form.

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1 BY MR. SIMMER:  
2 Q. You don't recall whether you --  
3 A. I don't recall this particular  
4 doctor situation. You hear in the media  
5 all the time that a doctor is getting  
6 arrested and they've been pushing pill  
7 mills and -- but I don't recall this  
8 specific doctor or if this was one of the  
9 ones I've heard.  
10 Q. Let me go back here on  
11 Exhibit 6, the email we looked at a moment  
12 ago.  
13 A. Yes.  
14 Q. So, this threshold increase is  
15 being requested on September 12th, 2011,  
16 right?  
17 A. The threshold increase from the  
18 field team?  
19 Q. I'm looking at your email, the  
20 last one.  
21 A. Okay.  
22 Q. Where you were passing this  
23 information on requesting a 15 percent  
24 threshold increase, right?

<p style="text-align: right;">Page 214</p> <p>1 A. Yes.</p> <p>2 Q. Now, if you would, look at</p> <p>3 Exhibit 7, the indictment.</p> <p>4 A. Yes.</p> <p>5 Q. And that first sentence under</p> <p>6 overview, do you see where it says: From</p> <p>7 on or about September 9 --</p> <p>8 MR. SIMMER: Strike that. I'll</p> <p>9 start again.</p> <p>10 Q. From on or about September 1,</p> <p>11 2009 and continuing through on or about</p> <p>12 May 18, 2012.</p> <p>13 So, I guess my question is, and</p> <p>14 I just want to establish for the record,</p> <p>15 your request, the one that you passed on</p> <p>16 to McKesson for a 15 percent threshold</p> <p>17 increase, you'd agree with me is during</p> <p>18 the time period of the indictment of Dr.</p> <p>19 Harper, right?</p> <p>20 MR. LAVELLE: Object to form.</p> <p>21 A. Based off of this information,</p> <p>22 the threshold increase for this location</p> <p>23 was September 2011.</p> <p>24 Q. It's within the time period of</p>	<p style="text-align: right;">Page 216</p> <p>1 MR. SIMMER: That is correct.</p> <p>2 We can waste a lot of time here.</p> <p>3 What you're reviewing it for is not</p> <p>4 the content of the document, it's the</p> <p>5 redactions.</p> <p>6 Beyond that, if you have any</p> <p>7 concerns about that, we're going to go</p> <p>8 ahead and proceed with our</p> <p>9 questioning.</p> <p>10 MR. LAVELLE: Well, I don't know</p> <p>11 what you've redacted. And the copy</p> <p>12 you've given to me doesn't have a</p> <p>13 Bates number on it.</p> <p>14 MR. SIMMER: I've told you what</p> <p>15 the issue was, and I'll go ahead and</p> <p>16 read into the record what the Bates</p> <p>17 number is. We'll substitute in Bates</p> <p>18 numbered documents when we get it, so.</p> <p>19 MS. CHARLES: I don't want to</p> <p>20 hold this up, but if the Bates number</p> <p>21 was removed, was our confidentiality</p> <p>22 stamping also removed?</p> <p>23 MR. SIMMER: We talked about</p> <p>24 this this morning, counsel, and we're</p>
<p style="text-align: right;">Page 215</p> <p>1 the indictment, right?</p> <p>2 A. Yes.</p> <p>3 MR. LAVELLE: Object to form.</p> <p>4 BY MR. SIMMER:</p> <p>5 Q. This has some of the redactions</p> <p>6 I'm talking about. I'm going to show this</p> <p>7 to counsel first. So --</p> <p>8 MR. POWERS: And also for the</p> <p>9 record, counsel for McKesson has</p> <p>10 e-mailed back saying that they do not</p> <p>11 object to the use of these documents</p> <p>12 for this deposition.</p> <p>13 MR. SIMMER: So we'll go ahead</p> <p>14 and proceed unless Rite Aid counsel</p> <p>15 want to lodge any objection.</p> <p>16 MR. LAVELLE: I'd like to see</p> <p>17 the document before you show it to the</p> <p>18 witness.</p> <p>19 MS. CHARLES: On behalf of</p> <p>20 McKesson, I'll just note I think it's</p> <p>21 already clear on the record that the</p> <p>22 redactions on this document were not</p> <p>23 as produced by McKesson. They were</p> <p>24 added by plaintiff's counsel.</p>	<p style="text-align: right;">Page 217</p> <p>1 going to substitute back in the ones,</p> <p>2 but the printing service, for whatever</p> <p>3 reason, cut all of the Bates numbering</p> <p>4 off of every exhibit.</p> <p>5 MS. CHARLES: So, I'll just have</p> <p>6 a standing objection to the use of</p> <p>7 exhibits without our confidentiality</p> <p>8 stamping, but I understand the excuse.</p> <p>9 MR. SIMMER: And Rite Aid's</p> <p>10 counsel made the same objection early</p> <p>11 on.</p> <p>12 Do we have one for the witness</p> <p>13 too? I don't think we gave it to her</p> <p>14 yet.</p> <p>15 MR. LAVELLE: You want me to</p> <p>16 give this to the court reporter?</p> <p>17 MR. SIMMER: The court reporter,</p> <p>18 so she can mark it, please.</p> <p>19 (Rite Aid - Novack Exhibit 10,</p> <p>20 email chain ending December 19, 2012,</p> <p>21 Bates No. MCK_MDL_00571625 to</p> <p>22 MCK_MDL_00571628, was marked for</p> <p>23 identification, as of this date.)</p> <p>24 MR. SIMMER: I identify it for</p>



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1 the record as an email string. The  
2 Bates numbering, which unfortunately  
3 was cut off, but it's MK --  
4 MCK\_MDL\_00571625 through '1628.  
5 BY MR. SIMMER:  
6 Q. Take a moment to review that,  
7 and let me ask you a few questions about  
8 that.  
9 A. (Perusing document.)  
10 MR. SIMMER: For the record, I'm  
11 going to make clear that the exhibit  
12 that we have proffered, the only  
13 redactions on the document were those  
14 that counsel for the plaintiffs did,  
15 which included communications in which  
16 Ms. Lai, or Ms. Novack, was not party.  
17 MR. LAVELLE: So when this was  
18 produced by McKesson, the redaction  
19 was not on there, correct?  
20 MR. SIMMER: That's correct.  
21 MR. LAVELLE: Okay. Thanks.  
22 THE WITNESS: (Perusing document.)  
23 Okay.  
24

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1 BY MR. SIMMER:  
2 Q. Okay. I direct your attention  
3 to the first email in this string from you  
4 dated September 18, 2012 at 11:42 a.m. to  
5 Travis House, copying Melissa Evangelista  
6 and Michael Oriente.  
7 Do you see that?  
8 A. Yes.  
9 Q. And the subject line is "5277,  
10 5284 and 5285."  
11 Do you see that?  
12 A. Yes.  
13 Q. And I believe that's a reference  
14 to specific Rite Aid pharmacies, right?  
15 A. Yes.  
16 Q. In your email, let me read this  
17 into the record: Travis, I sent a note  
18 last night about 5285's threshold, but  
19 could you help me look at 5277 and 5284  
20 also? It seems like their thresholds have  
21 been adjusted down. Thanks. Sophia.  
22 Could you tell us what's -- what  
23 your understanding of what was going on  
24 here?

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1 A. The email doesn't give me enough  
2 detail on what base code I was looking at.  
3 So I couldn't give you more context.  
4 Q. You don't recall this situation?  
5 A. I don't recall this specific  
6 situation.  
7 Q. So, am I right though that their  
8 thresholds have been adjusted down? Is  
9 that what appears to be precipitating your  
10 question?  
11 MR. LAVELLE: Object to form.  
12 A. I don't know what type of  
13 thresholds were adjusted down. So usually  
14 we would have some indication on what the  
15 base code is so I can understand some more  
16 context about this email communication.  
17 Q. But it was your email.  
18 So, you didn't include base  
19 codes, right?  
20 A. It looks like I did not.  
21 Q. Okay.  
22 A. So, I don't -- I can't recall  
23 what exactly we were talking about except  
24 it does look like there was an adjustment

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1 to the thresholds in the stores on the  
2 back end that we were not aware of.  
3 Q. So, Travis House responds to you  
4 at 1:31 p.m. on December 18th, 2012  
5 saying: Sophia. The stores were adjusted  
6 down based on a review of the accounts by  
7 our regulatory department.  
8 Do you see that?  
9 A. Yes.  
10 Q. What is he saying --  
11 MR. LAVELLE: Objection.  
12 Q. -- if you understand?  
13 MS. CHARLES: Object to the form  
14 of the question.  
15 MR. SIMMER: I'll withdraw the  
16 question.  
17 Q. What is your understanding he's  
18 saying here?  
19 A. That the stores had their  
20 thresholds reduced.  
21 Q. By McKesson's regulatory  
22 department, right?  
23 A. Correct.  
24 Q. And that's the department that

<p style="text-align: right;">Page 222</p> <p>1 would be responsible for reducing  2 thresholds.  3 Is that your understanding?  4 A. I don't know how --  5 MS. CHARLES: Object to the  6 form.  7 A. I don't know how they normally  8 handle it or who is responsible, but I'm  9 asking their account manager what  10 happened.  11 Q. Okay. And you respond, I  12 believe Mr. House is in -- he's in  13 Carrollton, Texas, which is Central Time  14 zone. So you respond a short time later,  15 although it looks to be like 50 minutes  16 later because you're responding Eastern  17 Time, right?  18 Anyway, it's the same day, but  19 it looks to be three minutes earlier. I  20 don't know how that can be other than a  21 time zone change.  22 You see what I'm saying?  23 A. Yes.  24 Q. Okay. Your email says: I don't</p>	<p style="text-align: right;">Page 224</p> <p>1 he indicates here, that thresholds are  2 blind to the customer?  3 MR. LAVELLE: Object to form.  4 A. I understand that they don't let  5 the stores know what their thresholds are.  6 Q. But you were requesting that you  7 be informed of that, or that Rite Aid  8 corporate be informed of that nonetheless,  9 right?  10 A. I was requesting to understand  11 why they were reducing the thresholds, not  12 necessarily what the actual numbers were,  13 but if there was a reduction, what  14 happened so that we can understand why  15 it's impacting our store servicing our  16 patients.  17 Q. And, what's your understanding  18 of why the thresholds are blind to the  19 customer?  20 A. It's information that they don't  21 need to know.  22 Q. If you'd look at the first page  23 of the exhibit, your email dated December  24 19th, the following day, at 10:54 a.m. to</p>
<p style="text-align: right;">Page 223</p> <p>1 understand how that can happen and why  2 this was not communicated. What was the  3 basis for reducing the thresholds?  4 Do you see that?  5 A. Yes.  6 Q. Okay. You want an explanation  7 for why the thresholds were being reduced,  8 right?  9 A. Yes.  10 Q. Okay. And you see that Mr.  11 House responds 5:17 p.m.: Sophia.  12 Regulatory performs periodic reviews of  13 all the accounts in their regions. They  14 base their reviews on purchase histories  15 in order to ensure that buying partners  16 remain constant -- excuse me. Buying  17 patterns remain constant. If they see  18 that an account's purchases have  19 decreased, they adjust the thresholds  20 accordingly to better identify anomalies  21 per their SOP. Since thresholds are blind  22 to the customer, they do not inform them  23 of any reductions.  24 So, is it your understanding, as</p>	<p style="text-align: right;">Page 225</p> <p>1 the same individuals. Let me read your  2 email into the record: Please review the  3 purchases. Based on the dispensing data I  4 pulled for one store they are dispensing  5 and purchasing accordingly. If this was  6 an auto adjust threshold down and within  7 the next month the stores are at that  8 threshold there should be an auto review  9 to readjust accordingly in order to  10 prevent this issue. We base this  11 information on thresholds on the report  12 and if we do not know there was a decrease  13 done causing the store to now exceed their  14 threshold it creates a burden for the  15 business.  16 Do you see that?  17 A. Yes.  18 Q. What are you saying here?  19 MR. LAVELLE: Object to form.  20 A. I'm saying that we need to  21 service our patients. So if there's an  22 adjustment done that we're not aware of  23 that's now creating a -- a shortage for  24 our customers that we currently serve,</p>

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1 then that could be a problem. And if we  
 2 have an algorithm in place where they do  
 3 do automatic adjustments, then we should  
 4 have an automatic review to make sure that  
 5 those adjustments were made correctly.  
 6 Q. So, McKesson put in an  
 7 adjustment downward based on their  
 8 regulatory review, and you've come back  
 9 and said then the next month you need to  
 10 readjust it upward perhaps.  
 11 Is that right?  
 12 MR. LAVELLE: Object to form.  
 13 BY MR. SIMMER:  
 14 Q. Or be reevaluated, at a minimum?  
 15 MR. LAVELLE: Same objection.  
 16 A. Saying we need to review the  
 17 information. So, to make sure that  
 18 whatever adjustments we do are appropriate  
 19 for that location.  
 20 Q. Because it's a burden for the  
 21 business, right?  
 22 A. Well, that's why I said there  
 23 isn't enough context for me to understand  
 24 what thresholds we're talking about. So

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1 at this point in time, McKesson is our  
 2 secondary vendor, and our primary vendor  
 3 or supplier is still our warehouse until  
 4 we fully converted. So, if we have  
 5 anomalies that are happening in the  
 6 warehouse and we're out of stock, so now  
 7 we've got to supplement with McKesson and  
 8 we don't traditionally order through them  
 9 because we have our warehouse supplying,  
 10 so now I've got to do this because I have  
 11 a supply issue in one vendor and they  
 12 didn't know that because they're going off  
 13 of my purchase history and we weren't  
 14 communicated that this change is made and  
 15 we are now out of stock for our patients.  
 16 So, understanding that changes  
 17 happen, understanding that there may be  
 18 dynamics in the operations day-to-day that  
 19 can cause them to require this is if we do  
 20 do any type of adjustments, are there  
 21 anything that we do going back to review  
 22 are those adjustments appropriate and  
 23 correct, and if not, do we have a  
 24 situation where we can review with the

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1 customer and service the patients.  
 2 Q. And everything you just said  
 3 there is what you describe here as a  
 4 burden for the business, right?  
 5 A. It's burden for the patient.  
 6 Ultimately --  
 7 Q. You don't say burden for the  
 8 patient. You say burden for the business.  
 9 A. Our business is to --  
 10 MR. LAVELLE: Objection to the  
 11 form of the question.  
 12 A. Our business is to improve  
 13 patient outcomes as the pharmacist and to  
 14 make sure that we're providing them  
 15 treatment of care. So, if we don't have  
 16 what they need in order to treat their --  
 17 their problem, then it's going to be a  
 18 burden.  
 19 Q. And in this instance, you're  
 20 objecting to a change that McKesson's  
 21 regulatory people had done to reduce the  
 22 thresholds for these three pharmacies,  
 23 right?  
 24 MR. LAVELLE: Object to form.

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1 A. I'm questioning the process that  
 2 they have that we were not aware of, or I  
 3 was not aware of, and this is coming up as  
 4 we go into a store that is running into a  
 5 problem, how did this happen, why did it  
 6 happen, how do we make sure that we do the  
 7 right thing for that location.  
 8 MR. SIMMER: I have another  
 9 exhibit that's got some redactions on  
 10 it you should look at. McKesson's  
 11 counsel, I understand, has no  
 12 objections to it.  
 13 Do you want to tell her which  
 14 one this is? I'll read the exhibit  
 15 numbers. We're going to be  
 16 introducing to the witness in a moment  
 17 another exhibit that's from the  
 18 McKesson production. It's Bates  
 19 numbered '547503 through '547510.  
 20 It's an email string, the last of  
 21 which is an email -- or, the  
 22 original -- the first email in this  
 23 string is from Anthony Dolan to Ms.  
 24 Novack and a group of others dated

<p style="text-align: right;">Page 230</p> <p>1 December 11, 2013.</p> <p>2 MS. MOORE: We're marking this</p> <p>3 one what?</p> <p>4 MR. SIMMER: I think we're</p> <p>5 marking this as 11.</p> <p>6 MR. LAVELLE: We should be at</p> <p>7 11. Right?</p> <p>8 And again, the redaction that's</p> <p>9 on this page was not in the document</p> <p>10 as it was originally produced by</p> <p>11 McKesson? Is that correct?</p> <p>12 MR. SIMMER: That's correct.</p> <p>13 MR. LAVELLE: Okay.</p> <p>14 MR. SIMMER: We've only redacted</p> <p>15 that portion as a communication on</p> <p>16 which -- or, no Rite Aid employee,</p> <p>17 including Ms. Novack, was included.</p> <p>18 MR. LAVELLE: Okay. I just</p> <p>19 wrote on this one.</p> <p>20 Do you have a copy that's clean?</p> <p>21 MR. SIMMER: That's the one for</p> <p>22 the witness right there.</p> <p>23 MR. LAVELLE: All right. Just</p> <p>24 put the stamp on top of what I wrote</p>	<p style="text-align: right;">Page 232</p> <p>1 Arnaldo la Luz.</p> <p>2 Who are Ernie Richardson and</p> <p>3 Arnaldo la Luz?</p> <p>4 A. They're in our purchasing group.</p> <p>5 Q. And any idea why he's including</p> <p>6 them on an email to you? And I guess he's</p> <p>7 also copying a couple of individuals. Why</p> <p>8 are they included in this string?</p> <p>9 MR. LAVELLE: Object to form.</p> <p>10 A. They are the purchasing group.</p> <p>11 So they handle the purchases.</p> <p>12 Q. It's also cc'd Donald Walker and</p> <p>13 Janet Hart.</p> <p>14 Who are they?</p> <p>15 A. Janet is in Government Affairs.</p> <p>16 I don't remember what Don Walker or his</p> <p>17 capacity was.</p> <p>18 Q. I believe he is a McKesson</p> <p>19 employee.</p> <p>20 Is that -- do you believe that</p> <p>21 that's --</p> <p>22 MS. CHARLES: Object to form.</p> <p>23 MR. LAVELLE: Object to form.</p> <p>24 A. I don't know. I don't know.</p>
<p style="text-align: right;">Page 231</p> <p>1 on there.</p> <p>2 MR. SIMMER: Just swap in the</p> <p>3 clean one.</p> <p>4 MR. LAVELLE: Here. Take this</p> <p>5 one (handing).</p> <p>6 (Rite Aid - Novack Exhibit 11,</p> <p>7 email chain ending February 21, 2014,</p> <p>8 Bates No. MCK_MDL_00547503 to</p> <p>9 MCK_MDL_00547510, was marked for</p> <p>10 identification, as of this date.)</p> <p>11 BY MR. SIMMER:</p> <p>12 Q. The court reporter has handed</p> <p>13 you what she's marked as Novack</p> <p>14 Exhibit 11. I'll identify again for the</p> <p>15 record as Bates numbered MCK_MDL_00547503</p> <p>16 through '547510.</p> <p>17 Just take a moment to review</p> <p>18 that and I'll ask you some questions.</p> <p>19 A. (Perusing document.)</p> <p>20 Okay.</p> <p>21 Q. I direct your attention to the</p> <p>22 first email in this string from Anthony</p> <p>23 Dolan at McKesson dated December 11, 2013</p> <p>24 at 5:03 p.m. to you, Ernie Richardson and</p>	<p style="text-align: right;">Page 233</p> <p>1 Q. Let's look at Mr. Dolan's email</p> <p>2 to you. He says: Good afternoon, Sophia.</p> <p>3 As a follow-up to our conversation</p> <p>4 yesterday, I would like to reach out to</p> <p>5 the Rite Aid team as it relates to</p> <p>6 controlled substance monitoring. After a</p> <p>7 great deal of research on this topic and</p> <p>8 work by our internal operations team,</p> <p>9 McKesson has developed a new analytical</p> <p>10 tool to monitor controlled substance</p> <p>11 utilization.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall this situation,</p> <p>15 what's going on here?</p> <p>16 MS. CHARLES: Object to the</p> <p>17 form.</p> <p>18 A. Vaguely.</p> <p>19 Q. What's your recollection?</p> <p>20 A. That we were having discussions</p> <p>21 about going through some stores and the</p> <p>22 controlled substances.</p> <p>23 Q. Beyond that, nothing further?</p> <p>24 A. I don't recall specifically. It</p>

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1 looks like they were asking for data, just  
2 to review thresholds.  
3 Q. I direct your attention to the  
4 second paragraph: I would like to have a  
5 meeting with you, Sophia, and Janet and  
6 anyone else from your teams to review the  
7 current controlled substance utilization  
8 process and also share with you how  
9 McKesson is now analyzing this data. In  
10 anticipation of a meeting after the first  
11 of the year that McKesson would like to  
12 have with Rite Aid to discuss this topic,  
13 can you please provide the following  
14 information for the months of September,  
15 October, and November regarding total  
16 script data for all Rite Aid stores.  
17 Do you see that?  
18 A. Yes.  
19 Q. And this is information I  
20 understand that McKesson wouldn't have in  
21 the ordinary course of business, this data  
22 he's requesting?  
23 MR. LAVELLE: Object to form.  
24 A. I'm not too sure what

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1 information they would have had access to.  
2 Q. But, presumably, he wouldn't be  
3 asking for data they already have, right?  
4 MR. LAVELLE: Object to form.  
5 A. I don't know.  
6 Q. He goes on to say he wants total  
7 doses, all non-controlled and controlled  
8 substances in doses by stores over this  
9 three-month period.  
10 Do you see that?  
11 A. Yes.  
12 Q. Do you recall why he's wanting  
13 this specific information from Rite Aid at  
14 this time?  
15 MR. LAVELLE: Object to form.  
16 MS. CHARLES: Object to form and  
17 foundation.  
18 A. I know one of the things we  
19 looked at was in number of doses, how much  
20 were we dispensing control versus  
21 non-control, as one of the performance  
22 indicators we would review internally.  
23 Q. And then there's a list of  
24 numbers there, store numbers.

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1 And, again, that's how Rite Aid  
2 identifies stores, by the -- the -- either  
3 four- or five-digit number system, right?  
4 A. Yes.  
5 Q. We looked a few of these up, and  
6 I'll direct your attention to the second  
7 page of the exhibit, par -- store 3157.  
8 Is that -- I believe that is a Cleveland,  
9 Ohio Rite Aid store.  
10 Is that consistent with your  
11 recollection?  
12 MR. LAVELLE: Object to form.  
13 A. I don't know offhand.  
14 Q. Store 3151, I believe that's an  
15 Akron, Ohio Rite Aid store.  
16 Is that consistent with your  
17 recollection?  
18 MR. LAVELLE: Object to form.  
19 A. I don't know all the store  
20 numbers and locations.  
21 Q. It would probably be true if I  
22 asked you about 3195 right below that,  
23 Painesville, Ohio.  
24 Is that consistent with your

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1 recollection?  
2 MR. LAVELLE: Object to form.  
3 A. I don't know the store numbers  
4 offhand.  
5 Q. Okay. Right below that he -- in  
6 the text below the list of pharmacies, the  
7 second paragraph: If possible, would  
8 Rite Aid also be able to outline to  
9 McKesson prior to our meeting the process  
10 Rite Aid is currently utilizing to review  
11 controlled substance utilization at your  
12 pharmacies?  
13 Do you see that?  
14 A. Yes.  
15 Q. You recall this -- this inquiry  
16 from Mr. Dolan?  
17 A. Vaguely. I re -- I remember the  
18 request for information. I don't recall  
19 specifically this information.  
20 Q. Do you recall giving him that  
21 information about Rite Aid's controlled  
22 substance utilization process?  
23 A. I don't recall.  
24 Q. So, in your email to him the



<p style="text-align: right;">Page 238</p> <p>1 next day at 6:24 on December 12th, 2013, 2 you say: Anthony. Could you send me the 3 current thresholds set for these 4 locations? Also criteria used to flag 5 these stores? 6 Do you see that? 7 A. Yes. 8 Q. And why are you requesting this 9 information? 10 A. From our loss prevention 11 background and the interest in analytics, 12 we always want to see if there's more that 13 we can do. So if we could take some 14 information that they're using that 15 they're looking at things differently, we 16 may want to apply the same thing in our 17 side. 18 Q. Do you recall whether he gave 19 you the thresholds for these locations? 20 A. I don't recall if he sent it to 21 me. 22 Q. Do you recall whether he gave 23 you the criteria used to flag these 24 stores?</p>	<p style="text-align: right;">Page 240</p> <p>1 later next week that work please let us 2 know and we will get a call scheduled. 3 Do you recall his requesting 4 again to have a conference call with you? 5 A. As I'm reading it through this 6 email. I don't recall prior to that, but 7 I see it in this email. 8 Q. And then your email responding 9 on Saturday, December 4th, you say: 10 Anthony. Janet is on vacation and I'm not 11 sure if she is back next week. I am 12 available at 10 a.m. to discuss. You 13 could call me direct at my office 14 717-760-7866. 15 So, am I right then that you're 16 suggesting that you go ahead and have this 17 call just you and the McKesson folks and 18 Janet would not be participating because 19 you thought she might be on vacation? Am 20 I reading that correctly? 21 MR. LAVELLE: Object to form. 22 A. I'm reading that if he needs to 23 have a conversation, he can call me 24 directly.</p>
<p style="text-align: right;">Page 239</p> <p>1 A. I don't recall if he gave it to 2 me or not. 3 Q. If you'd look at the next email 4 on the string from Mr. Dolan to you, same 5 day at 7:27 a.m., about an hour later: 6 Good morning, Sophia. Can we have a call 7 on Monday to discuss this as a 8 conversation may help answer your 9 questions? 10 Do you see that? 11 A. Yes. 12 Q. Do you recall his inquiring 13 about whether you could have a call on the 14 following Monday? 15 A. I recall based off of this 16 email. 17 Q. Okay. And you didn't review 18 this email in preparation for your 19 deposition today, did you? 20 A. No. 21 Q. Okay. So, the email right above 22 that from Mr. Dolan again to you the 23 following day: Hello Sophia. Just 24 following up on this. If there are times</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. Okay. And the next email in 2 this string is from Mr. Dolan to you the 3 next month, almost a full month later, 4 Friday, January 10th, 2014, and he adds 5 back in all of the other addressees that 6 had been taken out of your string to this 7 point. He says: Good afternoon Sophia. 8 I wanted to follow up on this request from 9 last month as it relates to discussing 10 controlled substances. 11 I guess my question is, before I 12 read further, do you recall whether you 13 and Mr. Dolan talked between December 14th 14 and January 10th? 15 A. I don't recall. 16 Q. He goes on to say: First I 17 wanted to see if you had a chance to pull 18 the information that we requested earlier 19 as we would like to review this 20 information prior to a meeting. Then I 21 would like to see if you can pull your 22 team together on the morning of January 23 23rd so that we can review this data and 24 discuss our partnership as it relates to</p>

<p style="text-align: right;">Page 242</p> <p>1 controlled substances?  2 Do you see that?  3 A. Yes.  4 Q. Do you recall this inquiry from  5 him asking to have a call to discuss your  6 partnership as it relates to controlled  7 substances?  8 A. I recall from reading it on this  9 email. I don't recall if we had a call.  10 I don't recall if -- what next steps we  11 took from it.  12 Q. So you recall from reading it in  13 the email that he did ask about this?  14 A. I recall right now where I'm  15 reading through it right now that he's  16 requesting for it.  17 Q. Okay. And he calls it a  18 partnership.  19 What is it -- do you have any  20 idea, is that how you all described the  21 relationship you had with McKesson on  22 controlled substances, that it was a  23 partnership?  24 A. I don't know if this is</p>	<p style="text-align: right;">Page 244</p> <p>1 days later right above that on Monday,  2 January 20th, 2014 to Mr. Dolan and the  3 same copied people: Hi Anthony. I should  4 have the information you requested  5 available to you mid to end of next week.  6 Let me know when you would like to  7 schedule a meeting after you receive the  8 data.  9 Do you recall having sent him  10 that email that you're going to provide  11 this data to him the following week?  12 A. I don't recall sending him the  13 email.  14 Q. Okay. Let's look at the next  15 email on this string from Mr. Dolan sent  16 to you that same day three hours later,  17 roughly three hours later: Thanks for  18 this Sophia. While I realize that the  19 information is not yet available, Don and  20 I would still like to take some time to  21 meet with you Thursday morning to have a  22 high level conversation on controlled  23 substances. Please feel free to invite  24 anyone that you wish to the meeting.</p>
<p style="text-align: right;">Page 243</p> <p>1 referring to our transition over to  2 McKesson as our sole supplier and that  3 partnership.  4 Q. Do you know when McKesson became  5 your sole supplier of controlled  6 substances?  7 A. It was phasing in in 2014.  8 Q. Do you know if it was a specific  9 date that it started?  10 A. I don't recall the specific  11 date. It started in waves.  12 Q. Were you part of the discussions  13 with McKesson about entering into this  14 relationship where they were the sole  15 source provider of controlled substances?  16 A. I was not involved in those  17 discussions. I was involved in reviewing  18 the thresholds for the stores as soon as  19 we were sold -- dispensed through  20 McKesson.  21 Q. Do you know who at Rite Aid had  22 those discussions with McKesson?  23 A. I don't know.  24 Q. Let's look at your email ten</p>	<p style="text-align: right;">Page 245</p> <p>1 Thank you. Anthony.  2 Do you recall him asking for a  3 high level conversation on controlled  4 substances?  5 A. I don't recall his request.  6 Q. Do you recall having this  7 conversation with -- with these  8 individuals at McKesson about this high  9 level conversation on controlled  10 substances?  11 A. I recall having conversations  12 with McKesson about controlled substances.  13 I don't recall if it's this specific one.  14 Q. What do you recall about those  15 conversations with McKesson?  16 A. That we've had those  17 conversations as we were rolling out our  18 stores for McKesson. That's why I said I  19 don't know if this was in relation to when  20 we were transitioning over for them to be  21 our supplier and there was a lot of work  22 around establishing the initial thresholds  23 and the information that's needed.  24 Q. Who did you speak with at</p>

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1 McKesson about that?

2 A. Various different people. I

3 don't even -- I don't remember

4 specifically.

5 Q. Do you remember anyone that you

6 talked to at McKesson about this?

7 A. I know as we were going through

8 threshold requests later on, I remember

9 talking to Nate from McKesson.

10 Q. Nate, what is his last name?

11 A. Hartle. H-A-R-T-L-E, I believe.

12 Q. Do you recall speaking to

13 anybody else at McKesson?

14 A. I don't recall specifically at

15 this time.

16 Q. Let's look at your email later

17 that same day: Anthony. Based on the

18 calendar available, the only time slot

19 would be Friday, January 24th, between 11

20 and 1 for most of the parties involved.

21 Do you remember sending that

22 email to him?

23 A. I don't recall sending the

24 email. I see it here.

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1 Q. And then he sends you an email

2 right above that 15 days later, or roughly

3 15 days later on Wednesday, February 5th:

4 Good afternoon Janet, Sophia, and Dan.

5 And, by the way, Dan Miller, who

6 is that?

7 A. He was our SVP of Pharmacy

8 Operations.

9 Q. And why would he be included in

10 this conversation, if you know?

11 A. Because he's operations.

12 Q. Good afternoon Janet, Sophia and

13 Dan. I would like to propose to you a

14 meeting on the morning of February 26th

15 with Don Walker and myself to discuss

16 McKesson's Controlled Substance Monitoring

17 Program. This is actually a follow-up to

18 my earlier message in December as we would

19 like to better understand the controlled

20 substance monitoring process at Rite Aid

21 and also share with you some changes

22 taking place at McKesson regarding

23 controlled substances.

24 Let me just stop there.

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1 Am I reading this correctly that

2 this conversation and/or meeting that he

3 had been requesting doesn't appear to have

4 happened yet?

5 MR. LAVELLE: Object to form.

6 A. I can't answer that because it

7 can be just finding an old email chain and

8 referencing the email there. Does not

9 necessarily mean that we didn't have any

10 calls or meetings or documents exchanged

11 in between that was not attached to this

12 trail.

13 Q. But I'm correct, aren't I, that

14 you don't remember having that

15 conversation with them, do you?

16 A. As I said before, I recall

17 having conversations with McKesson around

18 controlled substances. If it was related

19 to this specific request or inquiry or

20 process, I don't remember. I do remember

21 that we have had communications.

22 Q. So, the answer to my question is

23 "Yes, I don't remember."

24 Right?

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1 MR. LAVELLE: Object to form.

2 A. I'm not sure.

3 Q. My question for you was: You

4 don't remember having a conversation with

5 him, do you?

6 MR. LAVELLE: Object to form.

7 A. I don't recall -- your question

8 initially was also about did we have any

9 meetings in between these two emails or

10 this email chain. I don't recall if we

11 did or did not because I recall multiple

12 meetings with McKesson. I don't remember

13 if it was in relation to something set up

14 specifically on this email conversation or

15 if it was overall controlled substances.

16 So I would be guessing and I wouldn't be

17 giving you accurate information.

18 Q. Do you -- do you recall any

19 conversations, telephonic, in person, at

20 all, with Mr. Dolan?

21 A. I don't recall who I spoke to at

22 McKesson. So I don't know if it was

23 Mr. Dolan or somebody else from McKesson.

24 Q. Let me read on in his email to

<p style="text-align: right;">Page 250</p> <p>1 you dated February 5th, 2004 -- 14: Also  2 so that we can better prepare for this  3 meeting, could you please provide the  4 following information for the months of  5 September, October and November regarding  6 total script data for all Rite Aid stores.  7 And again what the request is  8 for a non-controlled, controlled  9 substances and a list of the same list of  10 stores that he'd requested earlier.  11 Am I right that this is the same  12 request that he made in the initial email  13 to you back in December?  14 MR. LAVELLE: Object to form.  15 A. I would have to review the store  16 numbers. I don't know if they're the  17 exact same stores that he's requesting.  18 Q. Well, let's look at the first  19 five.  20 Are they the same between the  21 two?  22 A. Yes.  23 Q. Look at the last five.  24 Are they the same between the</p>	<p style="text-align: right;">Page 252</p> <p>1 information prior to our meeting on  2 February 26th. Please let me know if you  3 have any questions. Anthony.  4 So, it looks like you still  5 haven't provided this data to them because  6 he's asking again, right?  7 MR. LAVELLE: Objection to the  8 form of the question.  9 BY MR. SIMMER:  10 Q. A week later, right?  11 MR. LAVELLE: Same objection.  12 A. He's looking for the  13 information. If we didn't send it to him  14 previously, I don't know.  15 Q. Okay.  16 A. I don't know if it was sent  17 separately.  18 Q. Any explanation why you haven't  19 given him the data, we've waited two  20 months for the data?  21 A. I don't recall the information  22 or what -- what the time frame was that we  23 were sending over.  24 Q. Okay. And you respond to him</p>
<p style="text-align: right;">Page 251</p> <p>1 two?  2 A. Yes.  3 Q. You can pick any other sampling  4 that you want.  5 Doesn't this appear to be the  6 same list that he had sent you back in  7 December?  8 MR. LAVELLE: Object to form.  9 Objection; asked and answered.  10 A. Without comparing the rest of  11 the stores, at least the first five and  12 the last five are the same.  13 Q. Is there any reason why you  14 haven't provided this data to him already,  15 that you can recall?  16 A. I can't recall.  17 Q. Look at the next email on this  18 string from him dated Wednesday, February  19 12th, seven days later: Hello Sophia,  20 Janet, Scott, Ernie and Arnaldo. I just  21 wanted to reach out to you on this request  22 regarding controlled substance purchasing  23 as I want to ensure that the McKesson  24 group has enough time to review this</p>	<p style="text-align: right;">Page 253</p> <p>1 five days later on February 17th:  2 Anthony. Here is the data for the stores  3 you requested. Please note there is only  4 54 stores. Store 3737 that you requested  5 is a closed store. Let me know if you  6 have any questions.  7 Do you see that?  8 A. I see it.  9 Q. And then he responds two days  10 later: Good morning Sophia. While this  11 is a great start and thank you for the  12 information, we do need this information  13 for all Rite Aid stores. Given our new go  14 forward relationship, this information is  15 all the more important to ensure that we  16 set the appropriate levels for all  17 Rite Aid stores.  18 Okay. Let me just start with a  19 couple of specific questions.  20 He refers to a new go forward  21 relationship.  22 Do you know what that is in  23 reference to?  24 A. I would assume it's our</p>

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1 relationship to use McKesson as our  
2 primary supplier.  
3 Q. Any other thing that he could be  
4 referring to other than that?  
5 A. Not that I would -- not that I  
6 can recall.  
7 Q. When he goes on to talk about  
8 that ensuring that we set the appropriate  
9 levels for all Rite Aid stores, any idea  
10 what he's referring to there?  
11 A. 'Cause we are transitioning all  
12 of our stores to them, so they will have  
13 to review it so they can set the right  
14 thresholds for all of our locations.  
15 Q. So, he's coming back to you,  
16 isn't he, and saying I don't just need the  
17 data for the -- in the list. I need it  
18 for every Rite Aid store.  
19 Right?  
20 A. Yes.  
21 Q. Okay. And then the -- you  
22 respond to him two days later: Anthony.  
23 Report is attached.  
24 Do you see that?

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1 A. Yes.  
2 Q. So, I guess I'm just trying to  
3 make sure that did this refresh your  
4 recollection of any of the sequence of  
5 events in what happened here?  
6 A. I don't understand the question.  
7 Q. Well, you -- when I first  
8 started asking you a question about this  
9 email string, you didn't recall what was  
10 going on here.  
11 I'm asking, now that you had  
12 gone through these emails, I had asked you  
13 questions about that, whether that  
14 refreshed your recollection at all.  
15 A. As I've stated when we started,  
16 I don't know the exact context of when or  
17 what the information was that they're  
18 asking for or the time frame. I don't  
19 recall if this is when we started  
20 discussing the transition to fully service  
21 through McKesson and that's why we're  
22 reviewing these thresholds.  
23 I recall having conversations  
24 with them. I don't recall that these were

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1 specific ones related to this  
2 communication.  
3 Q. His email also referenced a  
4 meeting to be held on February 26th.  
5 Do you know whether that meeting  
6 ever happened?  
7 A. I don't recall if that meeting  
8 happened or not.  
9 Q. Do you know whether you had a  
10 face-to-face meeting or a teleconference  
11 or any -- of any kind with this group of  
12 individuals from McKesson?  
13 A. I recall having meetings. I  
14 don't know if it was with this group. I  
15 don't know if it was in relation to this  
16 topic.  
17 Q. And you said you recall about  
18 meetings about controlled substances.  
19 What about, you know, what he's  
20 talking about here and the McKesson  
21 Controlled Substance Monitoring Program  
22 and the changes they had made, do you  
23 remember them coming to you and talking  
24 about that?

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1 MR. LAVELLE: Object to form.  
2 A. I don't recall specific  
3 conversations in relation to anything  
4 mentioned in this email.  
5 Q. Do you have any recollection  
6 whether -- what the changes were that  
7 McKesson made in its Controlled Substance  
8 Monitoring Program?  
9 MS. CHARLES: Objection;  
10 foundation.  
11 A. I don't recall.  
12 MR. SIMMER: Can we take a  
13 break?  
14 MR. LAVELLE: Yes.  
15 THE VIDEOGRAPHER: The time is  
16 now 2:50 p.m.  
17 We're going off the record.  
18 (Recess taken.)  
19 THE VIDEOGRAPHER: The time is  
20 now 3:13 p.m.  
21 We are back on the record.  
22 (Rite Aid - Novack Exhibit 12,  
23 email chain ending October 7, 2017,  
24 Bates No. MCK\_MDL\_00633242, was marked



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1 for identification, as of this date.)  
 2 BY MR. SIMMER:  
 3 Q. Ma'am, the court reporter has  
 4 handed you what she's marked as Novack  
 5 Exhibit 12, which I'll identify for the  
 6 record as MCK\_MDL\_00633242. And it's an  
 7 email string from a group of individuals  
 8 and then you're the last recipient of the  
 9 email string.  
 10 Do you see that?  
 11 A. Yes.  
 12 Q. And the email string to you is  
 13 October 7, 2013.  
 14 Do you see that?  
 15 A. Yes.  
 16 Q. And, because of the way this is  
 17 structured, you would have seen everything  
 18 down below that as well, right?  
 19 A. Yes.  
 20 Q. Okay. Let me start with the  
 21 first email in the string from Dawn Lynde  
 22 to Robert Howse, copying Melanie Bernard,  
 23 subject "Re: Oxycodone 5 milligram usage."  
 24 Do you see that?

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1 A. Yes. Yes.  
 2 Q. Are these individuals that you  
 3 know?  
 4 A. I don't recall the names.  
 5 Q. Okay. Let me just read the  
 6 context and then we'll get to the email  
 7 that you're a part of at the end here.  
 8 Dawn's email says: Hi, Rob. I am hoping  
 9 you can help me. We have dispensed 1600  
 10 oxycodone 5 milligram here in the past ten  
 11 days. I am wondering if you can find out  
 12 from corporate how close to my maximum  
 13 order quantity for the month we actually  
 14 are. This trend is something that needs  
 15 to be kept in check. Thanks. Dawn Lynde.  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. And is it 3279, is that how  
 19 you -- was that a store number, or do you  
 20 know?  
 21 A. It looks like it would be a  
 22 store number.  
 23 Q. Okay. And then Mr. Howse  
 24 responds by forwarding on to you, copying

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1 Wayne Cyrway and Melanie Bernard.  
 2 Who are those individuals?  
 3 A. I don't recall who Melanie was.  
 4 Wayne was the asset protection  
 5 district manager for that area.  
 6 Q. His email, he says: Hi, Sophia.  
 7 Can you help me out with this. See below.  
 8 This is store 3279 in Brewer, Maine. Let  
 9 me know your thoughts. Thanks, Rob.  
 10 Do you see that?  
 11 A. Yes.  
 12 Q. Are you familiar with what's  
 13 been going on in the opioid epidemic in  
 14 Maine?  
 15 A. Currently or in 2013?  
 16 Q. In 2013.  
 17 A. I know that we have a lot of  
 18 robberies or burglaries activities in  
 19 Maine.  
 20 Q. It's one of the hardest hit  
 21 states in the country; isn't that correct?  
 22 MR. LAVELLE: Object to form.  
 23 A. At the time, Maine was, when I  
 24 was in that position, Maine was one of the

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1 places where we were robbed a lot, but we  
 2 did have the most stores.  
 3 Q. And those robberies were as a  
 4 result of robberies to seek opioids,  
 5 right?  
 6 A. Controlled drugs.  
 7 Q. Controlled substances, right.  
 8 You respond by forwarding it on  
 9 to, the email, to Melissa Evangelista.  
 10 Who is that?  
 11 A. She works for McKesson.  
 12 Q. And copying Michael Oriente.  
 13 Who is that?  
 14 A. Works for McKesson.  
 15 Q. And, do you know what their  
 16 responsibilities were?  
 17 A. I --  
 18 MS. CHARLES: Object to form.  
 19 A. I know Melissa was our account  
 20 contact. If we had anything that we  
 21 needed, we would go through Melissa.  
 22 Michael was on the regulatory  
 23 side of the McKesson account.  
 24 Q. In your email: Melissa. Hope

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1 you have a great weekend. Could you tell  
2 me what the oxycodone threshold is for  
3 this store?  
4 Do you see that?  
5 A. Yes.  
6 Q. Okay. And your email is at  
7 12:54 p.m.  
8 At the same day, 6:49 p.m.,  
9 Michael responds: 11,500.  
10 Do you see that?  
11 A. Yes.  
12 Q. Earlier, you testified that  
13 there is no reason for stores to know what  
14 their threshold is, right?  
15 MR. LAVELLE: Object to form.  
16 A. That's the communication that we  
17 had received why McKesson does not talk to  
18 our stores about their limits.  
19 Q. Is it any different when you're  
20 asking for the threshold?  
21 A. I'm not ordering at the store  
22 level. So I don't control what goes into  
23 that location.  
24 Q. So, when the store came to your

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1 counterparts asking for what their  
2 threshold is and the request comes up to  
3 you, why are you even getting this  
4 information?  
5 MR. LAVELLE: Object to form.  
6 A. Based off of this information,  
7 it looks like the -- the PDM is asking me  
8 for my thoughts. I wanted to understand  
9 how much the store is dispensing in  
10 general, which would give us some  
11 information through history. Because  
12 McKesson is our sole supplier for CII's and  
13 this is a CII, they would have our  
14 threshold and our limits and they would  
15 have all of that data.  
16 So, asking them to get a  
17 baseline on what we're looking at and  
18 where they are in approaching their  
19 threshold at this time in the month will  
20 allow us to monitor what's going on in  
21 this location.  
22 Q. Everything you just said is not  
23 in this email though, is it?  
24 MR. LAVELLE: Object to form.

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1 BY MR. SIMMER:  
2 Q. There's nothing at all about  
3 trying to monitor this pharmacy or  
4 anything else, is there, in your -- in  
5 what's -- in this email string, is there?  
6 MR. LAVELLE: Object to form.  
7 A. The email was a direct question  
8 to the -- to the account managers.  
9 Q. And you went ahead and found out  
10 the threshold.  
11 That's all that happens in this  
12 email string, right?  
13 A. I found out the threshold  
14 amount, yes.  
15 Q. And because of the request had  
16 come up from the pharmacy, you went and  
17 asked McKesson what their threshold was.  
18 That's all we know from this email string,  
19 nothing about monitoring, anything else,  
20 is there?  
21 MR. LAVELLE: Object to form.  
22 A. This is something that we would  
23 look at. We would have to have a point of  
24 reference for us to start anything we

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1 wanted to -- to investigate. So, knowing  
2 that there is this trend that a store is  
3 worried about, we want to know what our  
4 upper limit is and make sure that we're  
5 reviewing that as time goes on so we have  
6 a starting point.  
7 MR. SIMMER: Move to strike  
8 non-responsive.  
9 Q. The only thing we see in this  
10 email string is there was request for a  
11 threshold, that you went to McKesson on,  
12 nothing else.  
13 Isn't that right?  
14 MR. LAVELLE: Object to form.  
15 BY MR. SIMMER:  
16 Q. In this email?  
17 MR. LAVELLE: Object to form.  
18 A. The information here was sent to  
19 a PDM. The PDM sent me to review. I  
20 asked McKesson for a threshold knowing  
21 what I want to do with it.  
22 Q. None of the rest of that's in  
23 this email though, is it?  
24 MR. LAVELLE: Object to form.

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1 A. What else are you asking if is  
2 in this email or not?  
3 Q. That you got the threshold that  
4 was requested by the store, something that  
5 you said the stores don't need to know.  
6 MR. LAVELLE: Object to form.  
7 A. We're not communicating this to  
8 the store.  
9 Q. So it's your testimony you  
10 didn't in turn communicate this back to  
11 the store, right?  
12 MR. LAVELLE: Object to form.  
13 A. I would not have communicated  
14 this back to the store.  
15 I don't know if I communicated  
16 to the district leader, but we get that  
17 information so that we have a starting  
18 point on what we need to monitor and look  
19 at. This information does not get  
20 released back into the store from my  
21 office.  
22 Q. You do, though, communicate it  
23 back to the district manager.  
24 You would agree with that,

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1 right?  
2 A. Depends on the situation. I  
3 don't know if I have or have not. But we  
4 don't release this information to the  
5 store and it's not readily available to  
6 stores.  
7 Q. Why do you give it to the  
8 district manager if you won't give it to  
9 the store?  
10 A. A district manager is not  
11 directly involved in that store or  
12 involved in their replenishment or their  
13 dispensing. However, a district manager  
14 is a field leader and knows our compliance  
15 measures and knows what they need to do to  
16 monitor that location. So if they're  
17 asking for advice on how to monitor this  
18 trend, they have to know a certain limit  
19 that they would reach.  
20 (Rite Aid - Novack Exhibit 13,  
21 email chain ending August 27, 2014,  
22 Bates No. MCK\_MDL\_00627585 to  
23 MCK\_MDL\_00627587, was marked for  
24 identification, as of this date.)

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1 BY MR. SIMMER:  
2 Q. The court reporter has handed  
3 you what she's marked as Novack  
4 Exhibit 13, which I'll identify for the  
5 record as MCK\_MDL\_00627585 through '587.  
6 Take a moment to review that and  
7 I'll ask you some questions.  
8 A. (Perusing document.)  
9 Okay.  
10 Q. If you look at the first email  
11 in this string from you to Michael Oriente  
12 and Sarah Medina, copying Melissa  
13 Evangelista.  
14 I think all three of those  
15 individuals are at McKesson.  
16 Is that correct?  
17 A. Yes.  
18 Q. The subject line "Threshold  
19 increase." This is dated August 25th,  
20 2014.  
21 Is this at a time when the sole  
22 source for Rite Aid controlled substances  
23 CII's was McKesson?  
24 A. Sole source for CII's have always

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1 been McKesson throughout the entire time.  
2 Q. How about all controlled  
3 substances?  
4 A. So, for all controlled  
5 substances, it depended on the stores. I  
6 don't know if we fully transitioned at  
7 this point. We may be in a wave.  
8 Q. What do you mean by a wave, by  
9 the way?  
10 A. We start transitioning a pocket  
11 of stores, and we go through, week after  
12 week we turn on more stores until we get  
13 to the end.  
14 Q. Just so we understand, what's  
15 the need to do this in waves? Why  
16 couldn't you just do them all at once?  
17 A. I think it's capacity for the  
18 distribution center, making sure if any of  
19 our pilot stores had a problem with  
20 systems or supply, we would be able to  
21 catch it before we implement it to the  
22 other locations.  
23 Q. And, how long did that process  
24 take to make the transition?

<p style="text-align: right;">Page 270</p> <p>1 A. Several months.</p> <p>2 Q. How many waves were there?</p> <p>3 A. I don't recall.</p> <p>4 Q. Your email you say: I reviewed</p> <p>5 the stores below and would like to request</p> <p>6 the following threshold increases.</p> <p>7 Thanks.</p> <p>8 And there's a list of stores</p> <p>9 down below.</p> <p>10 Do you recall this situation?</p> <p>11 A. I recall sending a few things</p> <p>12 over. I don't know if I recall this</p> <p>13 specific incident, but very similar</p> <p>14 incidents.</p> <p>15 Q. How did you select these</p> <p>16 pharmacies that you wanted threshold</p> <p>17 increases on?</p> <p>18 A. I don't recall the specific</p> <p>19 process. It may have been as we were</p> <p>20 transitioning over we had some threshold</p> <p>21 reports or omit reports where the stores</p> <p>22 were getting their orders cut if they were</p> <p>23 approaching or meeting their threshold and</p> <p>24 we were automatically reviewing them to</p>	<p style="text-align: right;">Page 272</p> <p>1 substances and they were supplying these,</p> <p>2 but we also had our auto replenishment or</p> <p>3 our supplier from the warehouse for CIIIs</p> <p>4 to Vs and any non-controls. So, in this</p> <p>5 bucket here, these are mainly things that</p> <p>6 we would have traditionally replenished</p> <p>7 from our distribution centers.</p> <p>8 Q. I think we're on the same page.</p> <p>9 And I believe you just</p> <p>10 testified, but just to clarify, you don't</p> <p>11 have any specific recollection why you</p> <p>12 chose these stores for the threshold</p> <p>13 increases, right?</p> <p>14 A. So, one of the things that we</p> <p>15 were doing during this time as we were</p> <p>16 switching these pharmacies over for our</p> <p>17 non- -- for our other controlled</p> <p>18 substances, they would start reaching a</p> <p>19 dashboard where we say hey, you know what,</p> <p>20 they're starting to approach their</p> <p>21 threshold. Is it the right amount of</p> <p>22 time. Let's take a look to make sure that</p> <p>23 we're not impacting those patients because</p> <p>24 there is no other way for them to receive</p>
<p style="text-align: right;">Page 271</p> <p>1 make sure, since they're new accounts to</p> <p>2 supply controlled substances, that they</p> <p>3 haven't been the supplier for before, that</p> <p>4 the threshold are set appropriately.</p> <p>5 Q. See, if you look at the</p> <p>6 description here, I believe all of these</p> <p>7 are CIIIs; are they not?</p> <p>8 A. CIIIs, alprazolam CIV.</p> <p>9 Q. There's a what?</p> <p>10 A. There's a couple of CIVs here</p> <p>11 with the benzos. CIIIs with the hydros at</p> <p>12 the time.</p> <p>13 It's different classes of</p> <p>14 controls.</p> <p>15 Q. Would these have been drugs that</p> <p>16 McKesson would have distributed for</p> <p>17 Rite Aid prior to this changeover you're</p> <p>18 talking about, or is this -- this category</p> <p>19 of drugs the ones that are now part of the</p> <p>20 new business arrangement between McKesson</p> <p>21 and Rite Aid?</p> <p>22 MR. LAVELLE: Object to form.</p> <p>23 A. So, prior, McKesson was the sole</p> <p>24 distributor for our Schedule II controlled</p>	<p style="text-align: right;">Page 273</p> <p>1 this medication at this time. So we would</p> <p>2 proactively review since this is the first</p> <p>3 time that these thresholds are being set</p> <p>4 for these locations.</p> <p>5 Q. I don't think you answered my</p> <p>6 question.</p> <p>7 I'm just trying to understand</p> <p>8 how you chose this list of stores.</p> <p>9 MR. LAVELLE: Object to form.</p> <p>10 A. It was a list of stores that we</p> <p>11 would receive where we can receive that</p> <p>12 they are starting to approach a threshold.</p> <p>13 Q. Okay. And is that because of</p> <p>14 that daily report that you get from</p> <p>15 McKesson about where they are with their</p> <p>16 thresholds that you chose these stores?</p> <p>17 A. I believe so.</p> <p>18 Q. You say that you reviewed the</p> <p>19 stores below, in your email.</p> <p>20 Tell us what you did to review</p> <p>21 these stores in order to increase their</p> <p>22 thresholds.</p> <p>23 A. So, for any of these, we would</p> <p>24 review the information that was provided.</p>

<p style="text-align: right;">Page 274</p> <p>1 Appeared I don't know if these were the  2 initial set thresholds that we were  3 creating for the waves or if these were  4 already after the waves were in. But  5 there would be initial thresholds that  6 were set. We wanted to review to make  7 sure that it matches our business  8 dispensing history because we said we have  9 the full picture from a dispensing  10 perspective and we wanted to look at,  11 based off of the dispensing information,  12 are these units comparable to what they  13 would have been dispensing. We wanted to  14 look at who the prescribers were in these  15 locations. We wanted to generate some  16 dispensing history in percentage of  17 controls versus non-controls.  18 So, we were going through a lot  19 of different key performance indicators to  20 identify and make sure that these  21 thresholds were what the stores were  22 already using today, or that day.  23 Q. A lot of words in your answer.  24 I asked a very simple question.</p>	<p style="text-align: right;">Page 276</p> <p>1 stores dispensing history, we'd look at  2 the doctor information. They'd pick up  3 the top doctor. They'd utilize IMS which  4 we had access to at the time so that we  5 could review whether those prescribers,  6 what their base of business was outside of  7 our chain alone, and after we went through  8 everything, we were comfortable with what  9 our business base was and what the file  10 said, I would send this over for approval.  11 So, that review was personally  12 done by me. If I was not available, then  13 we had another pharmacy district manager  14 that would come in and review that same  15 process which I've trained them to do so.  16 Q. Is there a written record of all  17 the information that you evaluated in  18 order to come up with this list of  19 threshold increases that you are  20 requesting?  21 A. Yes. We've got files on every  22 one of these stores that we had increased  23 these thresholds for.  24 Q. And, what's the file called?</p>
<p style="text-align: right;">Page 275</p> <p>1 What did you do to review these  2 stores in order to request their threshold  3 increases? Because your email says I  4 reviewed the stores below.  5 A. That's exactly what --  6 MR. LAVELLE: Object to form.  7 BY MR. SIMMER:  8 Q. The answer to your question says  9 we did this.  10 A. Yes.  11 Q. When you say "I," do you mean  12 more than just you did this review?  13 MR. LAVELLE: Object to form.  14 A. So, this data has to be  15 compiled. So, a lot of this information  16 we brought in additional manpower to  17 compile this data for us, print it out,  18 IMS reviews. As that information gets  19 compiled by different departments and temp  20 help that we had hired to get this  21 information out of the system, they create  22 a file for me so that I could sit down and  23 review it, and as I would go through it  24 and make sure that we were looking at the</p>	<p style="text-align: right;">Page 277</p> <p>1 A. They were individual files named  2 after McKesson thresholds for that store,  3 so.  4 Q. And they would have been created  5 contemporaneously with this request that  6 you were making, right?  7 A. Yes.  8 Q. And, what's in that file? If we  9 were to request Rite Aid to produce this  10 file, what would -- what would we request  11 that they provide to us?  12 MR. LAVELLE: Object to form.  13 A. The file would have our  14 dispensing information. It would have our  15 top doctors. It would have IMS reports.  16 It would have their percentage of controls  17 versus non-controls.  18 Q. And it's -- the actual name of  19 the file, if I were to say give us the  20 following files, what's the name of the  21 file I'll be asking for?  22 A. They're in store order. It  23 should be in my archives from my records.  24 And they would be the store numbers under</p>



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1 my files in Rite Aid, so.  
2 Q. So you kept an archive file by  
3 store number and you have all the records  
4 of your evaluation of those stores that  
5 you prepared, right?  
6 MR. LAVELLE: Object to form.  
7 A. I don't have them, but they are  
8 in Rite Aid, so.  
9 Q. Okay. And, what software  
10 program were you working in in order to  
11 create those -- those folders you're  
12 talking about?  
13 A. We utilized IMS. We utilized  
14 our Naviscript data. We used our  
15 prescriber reports which is generated from  
16 our IT department. So, multitude of  
17 different systems, but the main ones were  
18 IMS and our Naviscript.  
19 Q. Okay. I think you -- I thought  
20 you said there was one place I could go  
21 and get this information. You've now said  
22 that there are multiple places I have to  
23 go to to get this information.  
24 Which is it?

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1 A. I apologize.  
2 MR. LAVELLE: Object to form.  
3 A. I thought you meant where I went  
4 to get this information.  
5 So, those are the systems I went  
6 to to get this information. This is hard  
7 copy reports that were printed and filed  
8 in a manila folder in a filing cabinet.  
9 Q. In what kind of folder?  
10 A. In one of your regular file  
11 folders filed in a filing cabinet.  
12 Q. And it's by pharmacy number?  
13 A. It's by number.  
14 Q. And those are files, as far as  
15 you know, when you last had this position,  
16 the company retained, correct?  
17 A. They were all in the cabinet  
18 when I left.  
19 Q. And you had one for every  
20 pharmacy that Rite Aid owned, right?  
21 A. I had one for every pharmacy  
22 that we reviewed these thresholds for.  
23 Q. You didn't review every pharmacy  
24 for the threshold request?

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1 A. For any of these threshold  
2 increases that we requested for.  
3 Q. Only for the ones that you asked  
4 an increase from McKesson you created a  
5 folder for that pharmacy, right?  
6 A. Yes.  
7 Q. And again, the information we  
8 will see in that comes from IMS, Navistar.  
9 What else, did you say?  
10 MR. LAVELLE: Object to form.  
11 A. It would come from IMS. It  
12 would come from Naviscript. It would come  
13 from our IT department if we needed any ad  
14 hoc reporting.  
15 Q. And you printed all of that data  
16 to put into the -- that particular store's  
17 folder to document why you were requesting  
18 the threshold increase, right?  
19 A. To document the information we  
20 reviewed, yes.  
21 Q. Okay. How long on average did  
22 it take for you to conduct a threshold  
23 review, like for the ones listed in  
24 Exhibit 13, per pharmacy?

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1 A. It depends on how much data is  
2 available. So, if it's a large number, if  
3 it's a small number, you can see that some  
4 of these thresholds are very minimal based  
5 off of the volume. So, it really depended  
6 on how much information was generated  
7 based off of that store and that base  
8 code. So I don't have a specific --  
9 Q. Let's look at one here for  
10 Rite Aid 2375. That's Erie, Pennsylvania.  
11 And you requested a hydrocodone  
12 combination increase of 23,500, right?  
13 MR. LAVELLE: Object to form.  
14 BY MR. SIMMER:  
15 Q. How long would that evaluation  
16 have taken you to conduct?  
17 A. It depends on the information  
18 that's available.  
19 Q. Well, what's the average it  
20 would have taken for that large a  
21 increase?  
22 MR. LAVELLE: Object to form.  
23 A. I haven't timed myself to see  
24 how long it takes. Just gathering the

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1 data alone will take a good day for my  
2 analyst to get all these stores at once.  
3 I don't know how much time it specifically  
4 takes for one store to gather that  
5 information. And it depends on what we  
6 find as we're reviewing it if I needed to  
7 take more time to do it.  
8 Q. Well, I'm just trying to get an  
9 understanding. You have, what? I don't  
10 know how many are on here. Looks like  
11 about 30 pharmacies in this list.  
12 Just what would be the  
13 approximate amount of time it would take  
14 you to get this list together to go to  
15 McKesson to request this, or these  
16 threshold increases?  
17 MR. LAVELLE: Object to form.  
18 A. I couldn't quantify.  
19 Q. Weeks?  
20 A. Not weeks.  
21 Q. What, one week, longer? I'm  
22 just trying to get an understanding.  
23 MR. LAVELLE: Object to form.  
24 A. This was very important to us

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1 and we did dedicate -- I dedicated a lot  
2 of my time for McKesson threshold  
3 increases.  
4 It was definitely not weeks  
5 because we cannot go weeks without a store  
6 being able to service their patients. But  
7 I couldn't give you an exact time.  
8 Q. Okay. So, you sent this email  
9 to these individuals at McKesson on August  
10 25th. Two days later, on August 27th, you  
11 sent another email saying: Have these  
12 stores been adjusted?  
13 You see that?  
14 A. I do.  
15 Q. It doesn't look like a request.  
16 You basically are saying you want them  
17 adjusted.  
18 Isn't that right?  
19 A. I'm asking if there's an update  
20 because if it hasn't, then they would  
21 respond no, these have not.  
22 Q. Okay. Look at the next email in  
23 the string from Sarah Medina to you that  
24 same day about an hour later. Actually,

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1 she's -- I don't know because of the  
2 computer system whether it adjusts for  
3 time zone, but roughly an hour later,  
4 let's say.  
5 She says: Sophia. I received  
6 word this morning that we have completed  
7 the requests that were under 30,000 and  
8 are still working on the ones above  
9 30,000. We hope to receive a final update  
10 soon. Thank you for your patience.  
11 Do you see that?  
12 A. Yes.  
13 Q. Do you recall her sending this  
14 email to you saying that they had done the  
15 ones under 30,000 only and those had been  
16 approved? Do you remember that?  
17 A. I see it here. I don't recall  
18 prior to that.  
19 Q. Okay. Do you have any  
20 recollection why they had a cutoff at  
21 30,000?  
22 A. I don't know what their internal  
23 process is.  
24 Q. You respond just a few minutes

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1 later: When will this be resolved? These  
2 stores need product and if we don't get  
3 them adjusted they cannot wait until after  
4 Labor Day for their next shipment.  
5 What are you saying here?  
6 A. I'm saying that we need to make  
7 sure that we can service our patients.  
8 Q. It's urgent.  
9 Is that right?  
10 A. It is urgent. They need to tell  
11 me one way or another what's happening so  
12 that at least we can communicate and help  
13 those patients.  
14 Q. Michael Oriente responds to you  
15 short time later: Sophia. These  
16 adjustments were made. There are three  
17 stores for hydrocodone that I will be  
18 reaching out to you later today to  
19 discuss.  
20 Do you see that?  
21 A. Yes.  
22 Q. Did he, in fact, reach out to  
23 you?  
24 A. I don't recall.

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1 Q. Do you have any recollection  
2 what it was about those three stores he  
3 wanted to talk to you about?  
4 A. I don't recall.  
5 Q. Okay. So, it looks like other  
6 than the three that we don't know how they  
7 were resolved, they made all of these  
8 adjustments.  
9 Is that right?  
10 MR. LAVELLE: Object to form.  
11 A. That's what it would appear to  
12 from the email.  
13 Q. And we'll go through some more  
14 of these, but just generally, were there  
15 any adjustments they refused to make?  
16 A. I don't recall.  
17 (Rite Aid - Novack Exhibit 14,  
18 email chain ending August 27, 2014,  
19 Bates No. Rite\_Aid\_OMDL\_0030479 to  
20 Rite\_Aid\_OMDL\_0030684, was marked for  
21 identification, as of this date.)  
22 BY MR. SIMMER:  
23 Q. The court reporter has handed  
24 you what she has marked as Novack

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1 Exhibit 14, which I'll identify for the  
2 record as Rite\_Aid\_OMDL\_0030479 through  
3 '30684.  
4 Take a moment to review that,  
5 let me ask you some questions.  
6 A. (Perusing document.)  
7 MR. LAVELLE: Counsel, there's  
8 stuff that appears to be cut off on  
9 the right side of this document.  
10 Do you have a complete copy of  
11 it?  
12 MR. SIMMER: That's how the  
13 document was produced to us, counsel.  
14 MR. LAVELLE: Okay.  
15 MR. SIMMER: That one's on you  
16 guys.  
17 THE WITNESS: (Perusing document.)  
18 Okay.  
19 BY MR. SIMMER:  
20 Q. Let me direct your attention to  
21 your email on the bottom of the first page  
22 dated August 27, 2014 to Sarah Medina  
23 copying Michael Oriente, Nathan Hartle,  
24 Melissa Evangelista.

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1 Do you see that?  
2 A. Yes.  
3 Q. And the subject line is  
4 "Threshold Increase."  
5 Do you see that?  
6 A. Yes.  
7 Q. Does this appear to be another  
8 threshold increase request like the one we  
9 just looked at?  
10 A. Yes.  
11 Q. A group of pharmacies that  
12 you've done evaluation on and you're  
13 requesting specific increases of those  
14 pharmacies.  
15 Is that right?  
16 A. That is correct.  
17 Q. Let me just make sure I  
18 understand sort of what the -- we can take  
19 an example. And, I apologize, it was  
20 produced to us cut off.  
21 But just take, for example, on  
22 the second page, the fourth pharmacy from  
23 the bottom. That's Rite Aid 11512 and  
24 it's a hydrocodone combination and looks

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1 like you requested an increase to 33,000.  
2 Do you see that?  
3 A. I see 33,000, yes.  
4 Q. Is that -- isn't that reflecting  
5 you are requesting an increase to 33,000?  
6 A. Yes.  
7 Q. Okay. I just want to make sure  
8 I understand how these thresholds are  
9 being calculated.  
10 Is that in dosage units?  
11 A. That is in units.  
12 MS. CHARLES: Objection;  
13 foundation.  
14 BY MR. SIMMER:  
15 Q. I'm sorry?  
16 A. It is in units.  
17 Q. So it is in dosage units,  
18 correct?  
19 A. I do know that they calculate  
20 their liquids a little bit differently,  
21 but it's in units.  
22 Q. How does this compare to the  
23 Rite Aid 5,000 dosage CIII threshold that  
24 had been used prior to this?

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1 MS. CHARLES: Objection to form.  
2 A. This is different.  
3 Q. Thank you for that.  
4 How is it different?  
5 A. McKesson goes by base codes. We  
6 go by NDCs.  
7 Q. Again, just translate that for a  
8 layperson who doesn't understand your  
9 lingo.  
10 So, how does a base code 5,000  
11 threshold that you were using prior to  
12 this relate to your NDC threshold you're  
13 now using?  
14 MR. LAVELLE: Object to form.  
15 A. So, this is for the base code  
16 which is, for instance here, hydrocodone,  
17 which would include all different NDCs  
18 different strengths. Our supply chain is  
19 5,000 dosage units based off of an  
20 individual NDC.  
21 Q. So, the numbers reflected here  
22 would be all NDCs for that particular  
23 active ingredient?  
24 A. Yes.

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1 Q. So, for example, the very first  
2 one, hydrocodone combination increase to  
3 20,000.  
4 The request there is for all  
5 NDCs that include that active ingredient,  
6 right?  
7 MS. CHARLES: Object to form.  
8 MR. LAVELLE: Same objection.  
9 A. Can you clarify that question?  
10 Q. I'm doing the best I can. A  
11 little bit -- you know, I'm looking for  
12 help from you.  
13 A. Okay.  
14 Q. So, when you're requesting  
15 20,000, what are you requesting?  
16 A. It's encircles all of those NDCs  
17 rolling up 20,000. So it's not one NDC  
18 20,000, another NDC 20,000. Everything  
19 rolling up is 20,000.  
20 Q. So, every hydrocodone  
21 combination NDC all added together would  
22 be 20,000?  
23 A. Anything that includes  
24 hydrocodone as an ingredient, all together

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1 20,000.  
2 Q. I think we're on the same page,  
3 which is really quite remarkable.  
4 So, you say here: I've reviewed  
5 the stores below.  
6 Did you do anything differently  
7 with this group of stores than you did  
8 when we looked at the prior exhibit?  
9 A. Same review.  
10 Q. This is two days later than the  
11 review you had done for the prior group.  
12 When you finish a batch, do you  
13 send it off and then start the next one?  
14 A. We review all the files together  
15 and then we may send them off as a batch  
16 before we start the next one or we may  
17 send them up based off of the spreadsheet  
18 that we had as we're doing the reviews in  
19 totality. So this is just recordkeeping  
20 where we are with entering it in that  
21 sheet.  
22 Q. I think you raised something I  
23 should have gotten a little better  
24 understanding on.

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1 So, when you are establishing  
2 what you're going to request for the new  
3 threshold, is there a process that  
4 internally you as a group sit down and say  
5 okay, this is what I propose and the group  
6 debates it? Or, how do you arrive at the  
7 number that you're going to request?  
8 MR. LAVELLE: Object to form.  
9 A. It depends on what type of  
10 threshold we are reviewing. For these  
11 initial store set, store limit ones that  
12 are based off of historical trend and just  
13 establishing an account with McKesson,  
14 outside of CIIs, because they already had  
15 that, but for all of the other scheduled  
16 medications, this was reviewing of our  
17 data. Very different than if it's a  
18 one-off request from the field that's  
19 requesting a threshold increase.  
20 Q. Just go through what are some of  
21 the differences between this kind of  
22 review and the one-off review.  
23 A. So, a one-off review we would  
24 include our field team in making sure that

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1 any time they request a -- an increase and  
2 they've done their due diligence, gathered  
3 information, and it's coming from them for  
4 us to review.

5 In this situation, we do it the  
6 reverse way. We look at all of the  
7 dispensing data. We look at all of our  
8 trends. We look at our prescribers and  
9 then we determine if these thresholds will  
10 meet what our store has traditionally been  
11 doing. If there's anything in there that  
12 we feel needs additional information, then  
13 the reverse would happen. We'd now go out  
14 to the field and say can you give us some  
15 more information.

16 Q. You keep saying "we did this."

17 Is it just you, or is there a  
18 group of people doing this, what you're  
19 describing?

20 MR. LAVELLE: Object to form.

21 A. When it comes down to looking  
22 into a store and going out and asking the  
23 store team, I would usually partner with  
24 somebody from Government Affairs just to

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1 look for it because we house about the  
2 same information and we can look at  
3 doctors and --

4 Q. We talked about that earlier.

5 A. Yes.

6 MR. LAVELLE: You cut off the  
7 witness in the middle of her answer.

8 MR. SIMMER: I apologize.

9 MR. LAVELLE: Please do not do  
10 that, counsel.

11 A. So, in those situations, we  
12 would -- we would converse and say have we  
13 seen anything here; is there anything that  
14 we're concerned about; is this normal and  
15 customary as we're going through this  
16 review or this threshold.

17 We -- I'm thinking about my  
18 whole team that had to create all of these  
19 documents and these files and put them in  
20 front of me and make sure that I had one  
21 record after another for me to go through.

22 So, I apologize I'm  
23 interchanging my we's and I's. But in  
24 this particular case for these thresholds,

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1 I've sent it over and I've reviewed these  
2 thresholds to make sure that we felt  
3 comfortable with these based off of our  
4 historical dispensing trend.

5 Q. You're the final decider, right?

6 A. For anything that was a base  
7 limit threshold, yes, I was a decider.

8 Q. So, there's nobody, you know,  
9 else besides you that makes that final  
10 decision, right?

11 A. For the initial set, we reviewed  
12 data that was provided to us. So McKesson  
13 went through all of our history and  
14 information. They sent us what their  
15 projected thresholds were. We reviewed it  
16 to see if there was anything that we  
17 needed adjustments on, and if there were  
18 any adjustments, then I would review them  
19 to send them back up.

20 Q. Take a look at the email that  
21 you received from Michael Oriente that  
22 same day a couple hours later, it looks  
23 like.

24 A. You mean the email from Nate?

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1 Q. I'm sorry. I take this back.

2 No. To you. The email right  
3 above that at the top here on Exhibit 14.

4 A. To me from -- from Nate. You  
5 said from Michael Oriente.

6 Q. Because it's --

7 MR. SIMMER: Strike that.

8 Q. It's Nathan Hartle, I guess. I  
9 don't know how this came -- this is how it  
10 came to us.

11 There is an email from Michael  
12 Hartle to you, right? Do you see that?

13 MR. LAVELLE: Object to form.

14 A. I see an email from Nathan.

15 Q. Okay. You see where he says in  
16 the body of his email: Hi Sophia. I am  
17 not sure if you had a chance to connect  
18 with Michael today or not. I have some  
19 questions about the requests you have been  
20 submitting so maybe we could connect  
21 tomorrow or Friday if needed.

22 Do you remember this situation?

23 A. I don't recall this  
24 specifically.



<p style="text-align: right;">Page 298</p> <p>1 Q. And, let me go through the  2 questions he has here.  3 The first one: Question  4 comments. Could you add a column and  5 provide an explanation for each request?  6 For example, are they part of the original  7 wave research and have gone through your  8 process, are they due to some type of  9 growth, or is there another reason for the  10 request?  11 Do you see that?  12 A. Yes.  13 Q. Okay. Do you recall him asking  14 you for this information?  15 A. I recall it as I'm reviewing  16 this document.  17 Q. Okay. That's confusing.  18 You recall it as you're  19 reviewing the document? As you review it,  20 it refreshes your recollection of his  21 asking for it? Is that what you're  22 saying?  23 MR. LAVELLE: Object to form.  24 A. I remember that there are</p>	<p style="text-align: right;">Page 300</p> <p>1 Q. So when he's saying here are  2 they part of the original wave research,  3 do I take it that when the waves were  4 happening, whenever that was, there was  5 research done about each pharmacy at that  6 time and he's inquiring is this part of a  7 wave research? I'm trying to understand  8 what's -- what's happening here.  9 MR. LAVELLE: Object to form.  10 A. I think I'm confused also.  11 So, the wave research is just  12 exactly as it is. We were researching the  13 waves as they were coming for the  14 individual stores and their thresholds.  15 Q. So you don't know what he's  16 referring to.  17 Am I right?  18 A. I can't recall what specifically  19 he's reviewing -- referring to.  20 My understanding from this is  21 he's asking if it was based off of our  22 stores that were rolling in the next waves  23 upcoming and if we can make that  24 indication.</p>
<p style="text-align: right;">Page 299</p> <p>1 requests for us to add an indication to  2 why we were increasing a threshold.  3 Q. Did you, in fact, do that?  4 Provide that information?  5 A. I don't recall. I believe so.  6 Q. Okay. What types of  7 explanations did you provide? Because  8 that's not in any document the company  9 provided to us.  10 MR. LAVELLE: Object to form.  11 A. The information that's asked  12 here, whether it is a wave research or  13 another reason.  14 Q. Just clarify what you mean by  15 that.  16 What is wave research?  17 A. As our stores were rolling out  18 conversion to McKesson, we had the  19 information ahead of time. We wanted to  20 review the thresholds prior to us rolling  21 out.  22 Q. Okay.  23 A. So, hopefully we would be ahead  24 of it.</p>	<p style="text-align: right;">Page 301</p> <p>1 Q. Okay. The second bullet he says  2 under "Wave Research": Are all of the  3 requests for hydrocodone, aprazolam,  4 car -- how do you pronounce that?  5 Carisoprodol?  6 A. Mm-hm.  7 Q. Is that it?  8 Okay. Part of the initial  9 research process that includes a deep dive  10 and sign off by you?  11 What's he asking for, if you  12 know?  13 A. So, I go through a request as we  14 are going through this threshold increase  15 or threshold setting. So he's asking if  16 these items go through that review.  17 Q. And, do you re -- do you  18 remember responding to him on this?  19 A. I don't recall if I responded to  20 his email or if we had a call about it. I  21 don't recall.  22 Q. So what's the answer to the  23 question he asked you here, if you recall?  24 A. So, all of the requests that we</p>

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1 have sent up are reviewed by me. So that  
2 would have been the answer.  
3 Q. So the answer did include a deep  
4 dive on sign-off by you?  
5 A. Anything that I was sending over  
6 electronically listing with the stores  
7 were a review by me.  
8 Q. Okay. So, maybe this is -- a  
9 point to sort of clarify the relationship  
10 that Rite Aid had with McKesson.  
11 It was Rite Aid that established  
12 what it thought the appropriate thresholds  
13 were for these drugs, not McKesson.  
14 Isn't that right?  
15 MR. LAVELLE: Object to form.  
16 MS. CHARLES: Object to form.  
17 A. No. Rite Aid did not set these  
18 thresholds. So, these thresholds were  
19 already set for us. We had the  
20 opportunity to review for any adjustments  
21 or misalignments. So, there may be times  
22 where the threshold is right, but due to  
23 package sizing, that threshold needs to  
24 change because it can't accommodate those

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1 large bottle sizes for a low limit or  
2 threshold.  
3 Q. Well, the instance we're talking  
4 about here, did they reject any of the  
5 changes you requested?  
6 A. I don't recall if they did or  
7 didn't.  
8 Q. Look at the next bullet:  
9 Tramadol. We used the data you supplied  
10 to set initial thresholds. So what is  
11 driving the increases in these stores as  
12 so soon after the schedule change last  
13 week?  
14 You see what he's saying?  
15 A. I see it.  
16 Q. So he's saying you're requesting  
17 changes a week later on tramadol.  
18 What would your answer be to  
19 that question?  
20 MR. LAVELLE: Object to form.  
21 A. I don't believe that this  
22 relates to my already asking for an  
23 increase and asking for another one.  
24 So, in this specific question, I

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1 don't recall the specifics of it. But  
2 looking at this, tramadol was rescheduled,  
3 so I don't know if it was in relation to  
4 the rescheduling of tramadol that created  
5 an issue and we were looking at it, but  
6 they indicated that they supplied initial  
7 thresholds and it was just from my data.  
8 So, we didn't request a  
9 threshold increase based off of this  
10 conversation. They just supplied me what  
11 they had set it on based off of the data  
12 that was sent over to them. We're asking  
13 for some adjustments at this point.  
14 Q. What do you mean by tramadol is  
15 rescheduled?  
16 A. It went from a federally  
17 non-controlled medication to a controlled  
18 medication. So, I'm assuming this is the  
19 time period that it happened, based off of  
20 his comment.  
21 Q. So, when he says the schedule  
22 change, it appears to be -- to suggest the  
23 rescheduling you're talking about.  
24 Is that why you're answering the

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1 way you did?  
2 A. That is my understanding from  
3 this particular question, because our  
4 replenishment for non-controls does not  
5 account for this threshold that would have  
6 been created if this was rescheduled  
7 through McKesson.  
8 Q. When these drugs were  
9 rescheduled, would that -- did all of them  
10 happen simultaneously, or did they happen  
11 over time by drug?  
12 MR. LAVELLE: Object to form.  
13 A. I don't understand what all are  
14 being rescheduled means.  
15 Q. For example, the Schedule IIIs  
16 that were rescheduled to be Schedule IIs,  
17 did they all happen at the same time?  
18 A. I still don't understand the  
19 question.  
20 The rescheduling happens on the  
21 federal side.  
22 Q. That's what I'm asking.  
23 So, as the DEA reschedules  
24 Schedule IIIs so that they're Schedule

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1 IIs, did that all happen at the same time?  
2 A. For a specific medication, it  
3 would have happened at the same time. So,  
4 when it was tramadol, tramadol is going to  
5 be a scheduled medication. When they  
6 rescheduled hydrocodone, there was all  
7 different strengths of hydrocodone that  
8 was rescheduled at the same time.  
9 I don't know if that's --  
10 Q. Well, I'm asking not just about,  
11 you know, isolated tramadol or hydrocodone  
12 combination.  
13 All those Schedule III drugs  
14 when they were rescheduled, did all of  
15 them happen at the same time?  
16 MR. LAVELLE: Object to form.  
17 A. I don't understand the question.  
18 Q. There's a disconnect here. I'm  
19 doing the best I can to ask what I thought  
20 was a simple question.  
21 It was the DEA that decided that  
22 these were going to be rescheduled, right?  
23 MR. LAVELLE: Object to form.  
24 A. For the federal scheduling of

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1 the medications.  
2 Q. Right.  
3 They are the ones that decided  
4 that, right?  
5 A. It was changed from the federal,  
6 yes.  
7 So, when a schedule change  
8 happened with a medication, tramadol was  
9 non-control, we didn't have threshold set  
10 for a non-control medication. So, when  
11 tramadol was rescheduled, it now had a  
12 base code. It had a controlled substance  
13 limiting threshold, and we had to set  
14 those for the first time, whether it be in  
15 the supply chain.  
16 So it looks like this is during  
17 McKesson.  
18 Q. I think I'm starting to  
19 understand why we have disconnects.  
20 All of these changes the DEA  
21 made, the reschedule, you know, scheduling  
22 products that were not scheduled at all or  
23 controlled before who now are, all those  
24 changes, did they happen at the same time

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1 for all the drugs, or did it phase in by  
2 drug?  
3 MR. LAVELLE: Object to form.  
4 A. It was one drug at a time.  
5 I still don't understand.  
6 Q. If it was one drug at a time,  
7 that's fine.  
8 So it was -- we had a date for  
9 the change that happened that affected  
10 tramadol. There was another date for  
11 hydrocodone combination, another date for  
12 another drug.  
13 Is that what you're saying?  
14 A. Yeah.  
15 MR. LAVELLE: Object to form.  
16 A. I'm saying that there were  
17 specific dates where the rescheduling had  
18 to happen.  
19 Q. Okay.  
20 A. Not dictated by any of us here.  
21 Q. Understood. Okay.  
22 And he also says his last  
23 bullet: Other recent changes, i.e.  
24 lorazepam amphetamine. Have you conducted

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1 the same type of research, analysis and  
2 sign off on all of these stores? Many of  
3 them we just changed based on the data you  
4 supplied so I would like to understand the  
5 need to increase again so soon.  
6 What's he asking here, as you  
7 understand it?  
8 A. He's asking for additional  
9 information on items that we were asking  
10 for an increase for.  
11 Q. Looks like you just had an  
12 increase a short time earlier, right, for  
13 these lorazepam and amphetamine, right?  
14 A. So, it looks like there were  
15 thresholds that were reset from data that  
16 was sent over. Not too sure if that was  
17 reference to my data or just dispensing  
18 data as they were setting the initial  
19 thresholds, but it appears that we did  
20 need a second increase.  
21 Q. So that would be the original  
22 wave research that was done, and now  
23 you're asking an additional increase?  
24 A. We are requesting --

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1 MR. LAVELLE: Object to form.  
2 A. -- an adjustment to the  
3 threshold.  
4 Q. Do you recall why you were  
5 making a request so soon after the  
6 original wave in research had been done?  
7 A. For lorazepam specifically, I do  
8 remember it's based off of our algorithm  
9 for replenishment. And lorazepam comes in  
10 large package sizes. So when we  
11 replenish, it gives you the next unit up,  
12 which can be a thousand count bottle. So  
13 a low threshold, now I am replenishing at  
14 a thousand counts at a time, it's going to  
15 increase your threshold quickly.  
16 Q. Okay. Did you give him answers  
17 to these questions? Do you know?  
18 A. I don't recall.  
19 Q. You seem like a diligent enough  
20 employee.  
21 You would have responded to  
22 requests like this though, right?  
23 MR. LAVELLE: Object to form.  
24 A. I don't remember if we had a

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1 conference call about it, we had a meeting  
2 about it. I know we talked a lot about  
3 this process to make sure that we supplied  
4 the information that they need and what we  
5 needed to make sure that our patients were  
6 getting the medication that they needed.  
7 Q. So if he gives you requests like  
8 this in writing, you wouldn't have given  
9 him an answer in writing?  
10 MR. LAVELLE: Object to form.  
11 A. I can't tell you what I did or  
12 did not do several years ago.  
13 I know we would have discussed  
14 it and we would have both felt comfortable  
15 with the information, whether I was  
16 providing over.  
17 Q. You had testified earlier that,  
18 I think this morning or maybe earlier this  
19 afternoon, that you do recall having  
20 conversations with Nathan Hartle.  
21 That's who you -- I think you  
22 referred to, right?  
23 A. Yes.  
24 Q. And, would that be the context

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1 of what you're recalling, that you did  
2 have the conversation about things like  
3 this?  
4 MR. LAVELLE: Object to form.  
5 A. I don't remember the specific  
6 conversations we've had, but we did have a  
7 lot of conversation over threshold  
8 monitoring and reviewing the information  
9 and setting the store thresholds. And as  
10 I said, this was a brand new process.  
11 We're not going to get it right the first  
12 time and there are going to be tweaks that  
13 we need to do, whether it be from IT,  
14 replenishment, unit doses, things that we  
15 didn't encounter or anticipate  
16 logistically when we were going into this.  
17 Q. So, if you had done a written  
18 response to Mr. Hartle on these requests,  
19 that would be in your file, wouldn't it?  
20 MR. LAVELLE: Object to form.  
21 A. If I had a written response, it  
22 would be in an email somewhere.  
23 Q. Did you only respond via email?  
24 A. If it was a written response, it

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1 would be electronic.  
2 Q. So it could be other than via  
3 email?  
4 A. If we had a conversation over  
5 the phone, if we had a meeting in our  
6 office. I don't recall. If it was  
7 anything different, if it was a written  
8 response, it would be electronic through  
9 email.  
10 Q. My question was different.  
11 I said if you're going to give  
12 an electronic response, would it only be  
13 via email, or would you have created an  
14 electronic response, say, as a Word  
15 document or some other vehicle  
16 electronically? That's what I'm trying to  
17 understand.  
18 MR. LAVELLE: Object to form.  
19 A. I would have had to still send  
20 it over through email.  
21 Q. So, it's your testimony that if  
22 you had given a written response, it would  
23 have been something you would have sent  
24 Mr. Hartle via email and it would be in

<p style="text-align: right;">Page 314</p> <p>1 one of your emails, right?</p> <p>2 MR. LAVELLE: Object to form.</p> <p>3 A. If I responded, it would be in a</p> <p>4 email.</p> <p>5 I don't know if I responded via</p> <p>6 email or not. Like I said, we could have</p> <p>7 had a meeting to discuss or we've had some</p> <p>8 conference calls. I don't know how I</p> <p>9 responded.</p> <p>10 Q. Did you have face-to-face</p> <p>11 meetings with Mr. Hartle?</p> <p>12 A. I don't recall if we had</p> <p>13 face-to-face meetings with -- with Mr.</p> <p>14 Hartle specifically.</p> <p>15 Q. Did you have face-to-face</p> <p>16 meetings with anyone at McKesson around</p> <p>17 these issues on the transition that was</p> <p>18 going on?</p> <p>19 A. We had meetings and there were</p> <p>20 McKesson representatives there in our</p> <p>21 meetings, yes.</p> <p>22 Q. Did they come to your offices</p> <p>23 for those meetings in Camp Hill?</p> <p>24 A. We've had some meetings in the</p>	<p style="text-align: right;">Page 316</p> <p>1 legal pad notes go?</p> <p>2 A. I don't always keep my legal</p> <p>3 pads. Once I followed up on the</p> <p>4 information that I needed to, it would be</p> <p>5 discarded in confidential trash.</p> <p>6 Q. What's confidential trash?</p> <p>7 A. Just we've got a shredding</p> <p>8 company.</p> <p>9 Q. So you didn't make any effort to</p> <p>10 try to retain your notes in any way in the</p> <p>11 files that you left at Rite Aid, at the</p> <p>12 corporate offices when you changed your</p> <p>13 position, right?</p> <p>14 MR. LAVELLE: Object to form.</p> <p>15 A. All of the files in related to</p> <p>16 the research that we've done for</p> <p>17 thresholds were maintained and documented</p> <p>18 and filed by store order.</p> <p>19 Notepads that I would jot down</p> <p>20 when I was in meetings was not something</p> <p>21 that I kept routinely.</p> <p>22 (Rite Aid - Novack Exhibit 15,</p> <p>23 email chain ending August 28, 2014,</p> <p>24 Bates No. MCK_MDL_00630329 to</p>
<p style="text-align: right;">Page 315</p> <p>1 board room as we were discussing the</p> <p>2 overall transition in Camp Hill.</p> <p>3 Q. So that's the Rite Aid boardroom</p> <p>4 you're talking about, right?</p> <p>5 A. Yes, the conference room.</p> <p>6 Q. Did you go down to McKesson's</p> <p>7 offices for any meetings?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Would there be meeting notes of</p> <p>10 any kind that were taken when you met with</p> <p>11 them?</p> <p>12 A. I don't remember.</p> <p>13 Q. When you attended meetings with</p> <p>14 your -- with your colleagues at McKesson,</p> <p>15 did you take handwritten notes?</p> <p>16 MS. CHARLES: Object to form.</p> <p>17 A. I would have taken notes if I</p> <p>18 had anything I needed to document down or</p> <p>19 write down so that I can follow up on.</p> <p>20 Q. And, where did you store your</p> <p>21 notes?</p> <p>22 A. On a legal pad. I would store</p> <p>23 it on a legal pad.</p> <p>24 Q. And, where did those -- those</p>	<p style="text-align: right;">Page 317</p> <p>1 MCK_MDL_00630330, was marked for</p> <p>2 identification, as of this date.)</p> <p>3 BY MR. SIMMER:</p> <p>4 Q. Giving you what the court</p> <p>5 reporter has marked as Novack Exhibit 15.</p> <p>6 I'll state for the record that there is a</p> <p>7 portion of it that is redacted, that</p> <p>8 that's the part of the email communication</p> <p>9 that Ms. Novack was not a part of, so we</p> <p>10 redacted that. Other than that, the</p> <p>11 document is as produced, except, again,</p> <p>12 for the fact that our copy service deleted</p> <p>13 the footer and Bates number.</p> <p>14 Take a moment to review that.</p> <p>15 Let me ask you some questions about it.</p> <p>16 A. (Perusing document.)</p> <p>17 MS. CHARLES: Could you provide</p> <p>18 the Bates number?</p> <p>19 MR. SIMMER: I'm sorry.</p> <p>20 MCK_MDL_00630329 to '630330.</p> <p>21 MS. CHARLES: Thank you.</p> <p>22 THE WITNESS: Okay.</p> <p>23 BY MR. SIMMER:</p> <p>24 Q. Direct your attention to your</p>



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1 email dated August 28th, one day later  
2 from the email we just looked at, 2014,  
3 again to the same group of individuals as  
4 the prior email, Sarah Medina, Melissa  
5 Evangelista, Nathan Hartle, Michael  
6 Oriente.  
7 And you have, I think,  
8 virtually, or the same statement here:  
9 I've reviewed the stores below and would  
10 like to request the following threshold  
11 increases.  
12 You go on to say, it's a little  
13 bit different than the prior emails. You  
14 say: I've only had the opportunity to add  
15 the wave data in the first column.  
16 Okay. What are you saying  
17 there?  
18 A. I don't remember the context,  
19 but looks like I added what waves the  
20 stores went for our sole distribution  
21 through McKesson.  
22 Q. Well, there is a new column on  
23 this table and it says: National subgroup  
24 CD IND Code 2.

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1 What is that?  
2 A. I don't remember what that  
3 means, but based off of the email, it  
4 looks like, like for instance, that first  
5 store 213 was in wave 16 of conversion to  
6 McKesson. The next store is in wave 17,  
7 so on and so forth.  
8 Q. So that's your belief that that  
9 column reflects what particular wave that  
10 the change had been requested previously,  
11 right?  
12 A. The -- no. That's the wave that  
13 the store is converting to McKesson for  
14 sole distribution.  
15 Q. I think that was my question.  
16 So I think you --  
17 A. Okay.  
18 Q. And again, you did the same kind  
19 of research here that you had done in the  
20 prior two exhibits we have looked at,  
21 right?  
22 A. For these, yes.  
23 Q. This is a different set of  
24 pharmacies than what we looked at in the

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1 prior group, right?  
2 A. Yes.  
3 Q. And, do you know whether  
4 McKesson approved this set of changes that  
5 you were requesting?  
6 MS. CHARLES: Objection to form.  
7 A. I don't recall, if there isn't  
8 more context to this email that tells me  
9 if they approved it or not.  
10 Q. So, these are the three emails  
11 that we found on this subject.  
12 Were there other threshold  
13 request changes like this that you recall  
14 having done other than these three?  
15 MR. LAVELLE: Object to form.  
16 A. I don't know offhand.  
17 Q. Do you recall how many file  
18 folders that you created for these changes  
19 that you -- that you say you documented?  
20 A. A lot.  
21 Q. How many days do you recall  
22 having worked on this project?  
23 MR. LAVELLE: Object to form.  
24 A. I don't remember days

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1 specifically, but it was months that we  
2 were on this project.  
3 Q. Multiple months?  
4 A. Multiple months.  
5 Q. So, am I right then that there  
6 must have been more than three of these?  
7 A. I don't know how many there  
8 would have been.  
9 Q. Is it possible there were just  
10 three?  
11 MR. LAVELLE: Object to form.  
12 A. I don't know if there was just  
13 three. I don't know if it was just the  
14 establishing of the thresholds and it was  
15 just these are good to go. I don't know  
16 how we communicated this context. So I  
17 don't know how many.  
18 I do know that we have a lot of  
19 files that we've created just for review,  
20 and some of them may have been just to  
21 review, not necessarily to increase, but  
22 just to review to make sure that we were  
23 comfortable with the initial set.  
24 Q. So there would be a number of

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1 these file folders you're talking about  
2 where you just did a review and didn't  
3 request a threshold increase, right?  
4 A. There would be file folders,  
5 yes.  
6 Q. Okay. So it's not just those  
7 ones that you requested a threshold  
8 change, but every one you reviewed you  
9 created a folder for, right?  
10 A. Ones that I have reviewed there  
11 will be a file folder for, or there was a  
12 file folder for.  
13 Q. Okay. You made, in answering  
14 the question just now, you made the point  
15 of saying ones that you reviewed.  
16 Are there ones that others  
17 reviewed?  
18 A. You mentioned every single  
19 store. So, I didn't individually review  
20 every single store if the initial limit  
21 was set and it wasn't one that we wanted  
22 to look at for service level reasons.  
23 Q. So, if this process is taking  
24 months to conduct this review, the stores

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1 must have just been screaming bloody  
2 murder about, you know, I'm hitting my  
3 threshold every month and I'm running out  
4 of these drugs, right?  
5 MR. LAVELLE: Object to form.  
6 A. Remember I mentioned that we do  
7 these out in waves. So we're reviewing  
8 waves or what's upcoming hopefully ahead  
9 of time and we're ahead of it before it  
10 happens and then we can catch up on any  
11 that whether we didn't -- we missed or  
12 whether for our unit size issues or  
13 replenishment issues we have to go back  
14 and take a look at, so.  
15 Q. Okay. I think I'm getting a  
16 clear understanding now.  
17 So that when you're making these  
18 changes, these are stores that haven't  
19 actually made the change to getting the  
20 sole source supply from McKesson? You're  
21 ahead of that change for these stores?  
22 Is that right?  
23 A. These are to implement when the  
24 stores go sole source supply for the rest

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1 of the Schedules IIIs to Vs.  
2 Q. So that the change to sole  
3 source for these stores has not happened  
4 yet?  
5 A. I don't know, based off of the  
6 data in this email, whether wave 13, 14,  
7 15 has or has not happened. We tried our  
8 best to make sure that we were able to  
9 evaluate these so that they were ready for  
10 go-live date.  
11 Q. So, because it was important  
12 that there wouldn't be any supply issues  
13 for those stores when they went on a  
14 go-live date, right?  
15 A. It was important that we  
16 continued our service for patient care  
17 because there will be -- they're only  
18 ordering their medications from McKesson.  
19 Q. And again, to the extent you  
20 recall, when you made this request, do you  
21 know if there were stores that they  
22 refused to make the threshold adjustment  
23 on that you were requesting?  
24 A. I don't recall if they did or

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1 did not have any of those situations.  
2 Q. How long did the back and forth  
3 go on between yourself and your colleagues  
4 at McKesson as to these threshold  
5 adjustments we're talking about?  
6 MS. CHARLES: Object to form.  
7 A. For months we had constant  
8 communication about this process, which  
9 thresholds, reviewing those limits. So,  
10 we were talking about these thresholds all  
11 the time.  
12 Q. It wasn't a great question. Let  
13 me try that again.  
14 So, when you sent this -- these  
15 requests for a re -- for changes, do you  
16 recall how long it took to resolve  
17 whatever the issues were and get through  
18 that particular list?  
19 MR. LAVELLE: Object to form.  
20 BY MR. SIMMER:  
21 Q. Was it a period of months? Was  
22 it a period of weeks?  
23 MR. LAVELLE: Object to form.  
24 A. I don't recall specific amount

<p style="text-align: right;">Page 326</p> <p>1 of time, but it was not months and it was 2 not weeks. 3 Q. It was a matter of days then, 4 right? 5 A. I don't know if it's a couple of 6 days. I don't know if it's one or two 7 weeks, because we have to continue to 8 follow up, and if there's a reason, we 9 would want to know so that we can discuss. 10 But I don't know. I couldn't 11 tell you for sure. 12 Q. When you sent this list to 13 McKesson, do you know whether they did any 14 independent investigation of the -- of 15 these stores to determine whether they 16 agreed with the thresholds that you were 17 requesting? 18 MS. CHARLES: Objection to 19 foundation. 20 A. I couldn't speak for them. I 21 don't know. 22 Q. You had interactions with, you 23 know, Nathan Hartle and others, you said, 24 at McKesson, right?</p>	<p style="text-align: right;">Page 328</p> <p>1 A. Can you repeat that question? 2 Q. Did you reach an understanding 3 that McKesson was looking 4 pharmacy-by-pharmacy to see whether they 5 agreed with the conclusions you had 6 reached about what the appropriate 7 threshold would be for these pharmacies? 8 MR. LAVELLE: Same objection. 9 A. This email was asking for 10 additional information. So, if I spoke to 11 him, it was an understanding on what he 12 was asking and what he needed or what 13 information he was requesting. 14 Q. I wasn't talking about this 15 email. I said in your conversations with 16 Mr. Hartle, did you reach an understanding 17 whether McKesson was looking 18 pharmacy-by-pharmacy to see whether they 19 agreed with your recommendations about 20 threshold increases? 21 MR. LAVELLE: Object to form. 22 A. I don't know what they were 23 doing or what their process was. It 24 wasn't discussed with me specifically.</p>
<p style="text-align: right;">Page 327</p> <p>1 A. Yes. 2 Q. Did you get any understanding 3 what they were doing as they evaluated 4 these threshold requests? 5 A. I don't recall. I know that I 6 discussed what we were doing on our end at 7 Rite Aid. I don't recall what their 8 process was on their end. 9 Q. Mr. Hartle in the email we 10 looked at in the prior exhibit requested 11 certain additional fields of information, 12 right? 13 A. Yes. 14 MR. LAVELLE: Object to form. 15 BY MR. SIMMER: 16 Q. I guess my question is did you 17 reach an understanding that they were 18 looking pharmacy-by-pharmacy to see 19 whether they agreed with the conclusions 20 you had reached about what the appropriate 21 threshold was for these pharmacies? 22 MS. CHARLES: Objection to 23 foundation. 24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 329</p> <p>1 Q. Okay. 2 MR. LAVELLE: Counsel, if we're 3 finished with that document, can we 4 take a break? We've been going for 5 about an hour and 15 minutes. 6 MR. SIMMER: That's fine. 7 THE VIDEOGRAPHER: The time is 8 now 4:25 p.m. 9 We're going off the record. 10 (Recess taken.) 11 THE VIDEOGRAPHER: The time is 12 now 4:42 p.m. 13 We are back on the record. 14 BY MR. SIMMER: 15 Q. Ma'am, we talked several times 16 today about the 5,000 base code unit 17 threshold that Rite Aid had used with this 18 pharmacy. 19 Is that right? 20 MR. LAVELLE: Object to form. 21 A. It's 5,000 dosage unit per NDC 22 per order. 23 Q. But isn't that what you called 24 the base code?</p>

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1 A. No.  
2 Q. Am I getting this mixed up  
3 again?  
4 It's McKesson is the base code;  
5 for Rite Aid it was NDC, right?  
6 A. Yes.  
7 Q. Okay. Did you have anything to  
8 do with setting that 5,000 limit per NDC?  
9 A. No.  
10 Q. Do you know when that was, that  
11 particular policy was set for Rite Aid?  
12 A. I'm not aware when it was set.  
13 Q. But it -- but it was something  
14 that was in place when you took your job  
15 in Asset Protection?  
16 A. It was already in place, yes.  
17 Q. Do you have any idea how long it  
18 had been in place?  
19 A. I'm not sure.  
20 Q. So, that how did this work sort  
21 of in the Rite Aid environment, when a  
22 pharmacy ordered more than 5,000 of a  
23 particular NDC in any given month, would  
24 they receive the full 5,000, or was there

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1 some -- how was that handled?  
2 MR. LAVELLE: Object to form.  
3 A. The stores may not have been  
4 able to order the 5,000. We have a  
5 replenishment system that goes through an  
6 algorithm. It takes into account the  
7 medication on hand and the movement. So  
8 it didn't allow you to just manually order  
9 5,000 units if that's not what you've been  
10 dispensing or that's not what your sales  
11 show.  
12 So, in that scenario, you would  
13 not be able to reach that threshold. The  
14 ordering system would tell you you can't  
15 order above this because it's already  
16 exceeded the max based off of your store  
17 algorithm. If the store orders more than  
18 5,000, or for whatever reason the order is  
19 over 5,000, then the order would be  
20 omitted. So they would not get anything  
21 above that.  
22 Q. They would get the 5,000 though,  
23 right?  
24 A. You know, I don't know.

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1 Q. So, I'm just trying to  
2 understand so that if a store ordered,  
3 just give an example, 7500 of that  
4 particular NDC, 7500 units, would they get  
5 the 5,000 or would they get nothing?  
6 MR. LAVELLE: Object to form.  
7 A. I don't -- I'm not clear. I  
8 know in McKesson, it would -- the whole  
9 order would be omitted.  
10 From the supply chain, I'm not  
11 sure. I'm not involved in that.  
12 Q. So that McKesson, at least  
13 you're sure that they would not do a  
14 partial order up to -- or delivery up to  
15 the threshold, right?  
16 A. Correct.  
17 Q. Do you know why they did it that  
18 way?  
19 MS. CHARLES: Objection;  
20 foundation.  
21 A. I'm not sure.  
22 Q. Do you know whether Rite Aid had  
23 a similar policy? Just to be real clear.  
24 MR. LAVELLE: Object to form.

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1 A. Rite Aid's policy was somebody  
2 will look at the lines that were ordered.  
3 If it was over the 5,000, then somebody  
4 would come out and pick the lines, and  
5 they would have a protocol in place to  
6 contact the stores, document that call,  
7 that activity in a log.  
8 Q. Okay. I'm not sure I got a  
9 clear answer there.  
10 Would they get a partial order  
11 shipped to them?  
12 MR. LAVELLE: Object to form.  
13 Objection; asked and answered.  
14 A. I don't recall if they partially  
15 would fulfill that order. I don't  
16 remember.  
17 Q. Okay.  
18 (Rite Aid - Novack Exhibit 16,  
19 email chain ending June 17, 2013,  
20 Bates No. Rite\_Aid\_OMDL\_003075 to  
21 Rite\_Aid\_OMDL\_003077, was marked for  
22 identification, as of this date.)  
23 BY MR. SIMMER:  
24 Q. The court reporter has handed

<p style="text-align: right;">Page 334</p> <p>1 you what she's marked as Novack Exhibit  2 16, I'll identify for the record as  3 Rite_Aid_OMDL_003075 to '003077.  4 Take a moment to review that, if  5 you would.  6 A. (Perusing document.)  7 Okay.  8 Q. The subject line of this string  9 of emails is "5046 Suspicious Order  10 Monitoring Project."  11 Can you tell us what that is?  12 A. This was a proposal to create a  13 portal application that would help us with  14 suspicious order monitoring being able to  15 excess different KPIs and review  16 cross-function.  17 Q. Using some of that lingo again.  18 What is a KPI?  19 A. A key performance indicator.  20 Q. And, what do you mean by key  21 performance indicator?  22 A. Some metrics for -- some metrics  23 that we have identified that we wanted to  24 monitor for anomalies.</p>	<p style="text-align: right;">Page 336</p> <p>1 Q. You partnered with whom?  2 A. With Janet Hart on a lot of the  3 specs with the IT person that was creating  4 this document for us.  5 Q. And, why is it that the three of  6 you had decided that it would be a good  7 idea to have the suspicious order  8 monitoring projects developed?  9 A. Because we have different  10 channels that we're already doing with  11 suspicious order monitoring. However,  12 they're housed in different places. So we  13 were really looking for a one-stop shop,  14 easily accessible, press of a button, so  15 that it's not as manual, it's -- gives us  16 a better edge on identifying something if  17 something is to be out of the norm.  18 Q. So, the idea was to create a  19 portal, correct?  20 A. Yes.  21 Q. Who would have access to that  22 portal?  23 A. We had determined that the field  24 would have access, meaning pharmacy</p>
<p style="text-align: right;">Page 335</p> <p>1 Q. So, an anomaly would be  2 something of concern, correct?  3 A. An anomaly is something that we  4 want to look at. Does not mean that it's  5 necessarily a concern. We just want to  6 understand what happened.  7 Q. Okay. So, a key performance  8 indicator looks like a positive thing  9 though. When I hear that term, it could  10 be a negative thing, depending on what the  11 information is.  12 Right?  13 A. The information indicates that  14 it's something out of the norm.  15 Q. Do you know who originated this  16 proposal for suspicious order monitoring  17 project?  18 A. I know it was in discussion  19 through the supply chain and through Janet  20 Hart's office.  21 Q. Did you have a role in making  22 this recommendation?  23 A. Yes. I was a partner in this  24 one too.</p>	<p style="text-align: right;">Page 337</p> <p>1 district managers, or asset protection  2 district managers. We wanted to make sure  3 that Asset Protection had access,  4 Government Affairs would have access and  5 the supply chain.  6 Q. And, what kind of information or  7 whatever it was would be housed on this  8 portal?  9 A. We were hoping to get a lot of  10 our information in relation to ordering  11 any type of adjustment that a store does,  12 any type of manual adjustments, any type  13 of external orders, being able to monitor  14 inventory, a lot of the different factors  15 that would impact the store.  16 Q. So, I'm trying to get a better  17 understanding what actually the idea was  18 for the suspicious order monitoring  19 project.  20 What would be housed on that  21 portal?  22 MR. LAVELLE: Object to form.  23 A. So, our thought process was to  24 consolidate everything that we have</p>



<p style="text-align: right;">Page 338</p> <p>1 currently in our asset protection          2 dashboard that only our asset protection          3 district managers have easy access to.          4 Everybody would have to come through us.          5 And to house items that were housed over          6 in the supply chain so that it can come          7 into one place. That way we can look at          8 the information. We can look at it from          9 an analytics perspective. You know, we're          10 always looking for better ways to increase          11 our controls and improve on what we have.          12 Q. I direct your attention to,          13 actually, your email which is the second          14 one on the first page of Exhibit 16?          15 A. Yes.          16 Q. And it's your email to Robert          17 Oberosler and Janet Hart.          18 Do you see that?          19 A. Yes.          20 Q. And you say: My revisions are          21 in blue for the DC threshold project.          22 So, if I have it right, and I          23 think your exhibit is in color so you          24 should be able to see it as well. When</p>	<p style="text-align: right;">Page 340</p> <p>1 Q. You didn't choose the word          2 "consolidate."          3 You said "develop," right?          4 MR. LAVELLE: Object to form.          5 A. I used the word "develop"          6 because we were developing a brand new          7 portal application. So that's the term we          8 use as we do any of these specs and we're          9 putting out there because we're developing          10 a new platform that was not currently          11 existing.          12 MR. SIMMER: Move to strike          13 non-responsive.          14 Q. I asked you simply it was you          15 chose the word "develop."          16 MR. LAVELLE: Object to form.          17 Objection; asked and answered.          18 A. I chose to use the word          19 "develop" because we were developing an          20 access -- a new application, not new          21 controls.          22 Q. You also chose the word          23 "effective controls," right?          24 MR. LAVELLE: Object to form.</p>
<p style="text-align: right;">Page 339</p> <p>1 you look back on the next page, you put          2 your changes in that exhibit and they're          3 in blue, correct?          4 A. Yes.          5 Q. Are you able to see the blue          6 color for your changes?          7 A. Yes.          8 Q. Could I have you, in the middle          9 of the next page there under          10 "Description," could you read those          11 changes in the first sentence that you          12 included that are in the blue type?          13 A. Yes.          14 Develop effective controls          15 against the diversion of controlled          16 substances and conduct adequate due          17 diligence to ensure that controlled          18 substances distributed from the          19 distribution centers are legitimate          20 business -- are for legitimate business          21 needs.          22 Q. Now, you chose the word          23 "develop," didn't you?          24 A. Yes.</p>	<p style="text-align: right;">Page 341</p> <p>1 BY MR. SIMMER:          2 Q. The word "effective," that's          3 your word choice, right?          4 A. Yes.          5 Q. Okay. You also say in there          6 "conduct adequate due diligence."          7 Those are your word choices,          8 right?          9 A. We were already doing our due          10 diligence. This is how we can tell them          11 this is what this platform is going to          12 portray for us.          13 Q. You didn't say, and the words          14 you chose were, "already conducting due          15 diligence." You say here "conduct          16 adequate due diligence."          17 Right?          18 MR. LAVELLE: Object to form.          19 BY MR. SIMMER:          20 Q. Those were your words?          21 MR. LAVELLE: Object to form.          22 A. We're utilizing this as a          23 description on what this project entails.          24 So, this project is to help us develop a</p>

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1 new platform and it will have adequate due  
 2 diligence, not to say that we don't  
 3 currently have good due diligence or that  
 4 we don't have effective controls. This is  
 5 a continuation of what we're already  
 6 doing.  
 7 Q. Okay. It's fine to say all this  
 8 now, but the words you chose are  
 9 different. The words you chose simply say  
 10 "conduct adequate due diligence."  
 11 That's what you said at the  
 12 time, right?  
 13 Are you now wanting to add words  
 14 that you didn't put into the description?  
 15 MR. LAVELLE: Object to form.  
 16 A. I'm giving you context to the  
 17 description because this is a document,  
 18 but we also have to present this as we are  
 19 presenting this to get funds to have this  
 20 application developed.  
 21 Q. So, this is a description in  
 22 order to get funds from the company to  
 23 create the portal, right?  
 24 A. To create that application, yes.

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1 Q. Why didn't you say in your  
 2 description "we would like to collect  
 3 information that is currently housed in  
 4 different places into -- and consolidate  
 5 it in one place"?  
 6 MR. LAVELLE: Object to form.  
 7 BY MR. SIMMER:  
 8 Q. Why didn't you say that?  
 9 MR. LAVELLE: Same objection.  
 10 A. We said this because we want to  
 11 take that information we currently have  
 12 and also see if we can do more with it.  
 13 So, we already have controls in place.  
 14 And, like I said, things change.  
 15 Everything improves. What type of  
 16 improvements can we do now with the  
 17 computer system that we weren't able to do  
 18 prior to this as a human review?  
 19 Q. Wouldn't it have been a easier  
 20 sell for management if you had said we  
 21 already have controls in place, what we'd  
 22 like to propose is that we consolidate the  
 23 information we already have housed in  
 24 different places?

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1 MR. LAVELLE: Object to form.  
 2 A. In order to get funding for a  
 3 project, we have to put in what is new  
 4 about it that will help us improve our  
 5 processes and take it a further step.  
 6 If we already have something  
 7 that is existing, which we currently do,  
 8 then why do we need all this money to  
 9 create a new platform?  
 10 Q. How much money were you  
 11 requesting?  
 12 A. Any type of IT project was a  
 13 lot. I don't remember the exact dollar  
 14 value. It's not something that we could  
 15 afford personally.  
 16 Q. You don't think it would have  
 17 been an easier sell for management, in  
 18 terms of making this kind of investment,  
 19 to say, you know, we already have these --  
 20 these tools in various different places.  
 21 We'd just like to consolidate them? We're  
 22 already doing this.  
 23 Wouldn't that be an easier sell  
 24 with management?

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1 MR. LAVELLE: Object to form.  
 2 Objection; asked and answered.  
 3 A. We wanted to make sure we  
 4 showcased what we wanted to do. So, we  
 5 already have it. We want to make sure  
 6 that they understand that we want this for  
 7 a technology perspective so that we can  
 8 easily access that information if, at any  
 9 point, we needed it.  
 10 Q. It doesn't say anywhere in here  
 11 we already have it, does it?  
 12 MR. LAVELLE: Object to form.  
 13 Objection; asked and answered.  
 14 A. That's why we present these PI  
 15 projects. So, we create a document and  
 16 then we go and present this in person and  
 17 present our case.  
 18 Q. So you're saying what you would  
 19 have done is when you would have presented  
 20 this in person, you would have explained  
 21 you already have this information in  
 22 different places, you just want to  
 23 consolidate it? That's what your  
 24 testimony is?

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1 MR. LAVELLE: Object to form.  
2 BY MR. SIMMER:  
3 Q. You'd do it in person, right?  
4 MR. LAVELLE: Same objection.  
5 A. Management is already aware of  
6 what we currently have. We're letting  
7 them know what we want to do with this  
8 information now.  
9 Q. So, who in management already  
10 knew about this? Who are those  
11 individuals?  
12 A. Folks that are operating with  
13 this project, anyone that we were  
14 presenting this information to that would  
15 have a stake in signing off.  
16 Q. Okay. You're sort of confusing  
17 me.  
18 You said that you were going to  
19 present this to management. Now you're  
20 saying that management happens to be the  
21 same people that are working on the  
22 project.  
23 Which is it?  
24 MR. LAVELLE: Object to form.

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1 A. So, we're all in management  
2 that's in this project specifically, but  
3 we would have to present this to, like,  
4 our CFO or our -- for finances, or we'd  
5 have to present this to make sure that I  
6 copied my supervisor here so that he's  
7 aware of what we're trying to do from a  
8 department's perspective, and so did Janet  
9 and so did other people on this  
10 communication chain so they're all aware  
11 of what we currently have and they're  
12 aware of what we're trying to do from a  
13 business case perspective so that we can  
14 get this funding.  
15 Q. So when I go take the  
16 depositions, or we go take the depositions  
17 of these individuals, they're going to say  
18 we already knew about all the stuff we  
19 had. We knew it was housed in different  
20 places. Even though the description  
21 doesn't say that anywhere, they're going  
22 to confirm they agree with you that they  
23 knew this stuff was already being done,  
24 right?

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1 MR. LAVELLE: Object --  
2 Q. That's your testimony?  
3 MR. LAVELLE: -- to the form.  
4 A. I can't tell you what they would  
5 say in their deposition.  
6 Q. You just said they already knew  
7 about this.  
8 MR. LAVELLE: Object to form.  
9 That's not even a question.  
10 A. So, you asked --  
11 MR. LAVELLE: Wait until he asks  
12 a question.  
13 BY MR. SIMMER:  
14 Q. Did they know about it or not?  
15 You just said that they did.  
16 Now you're saying you don't know what they  
17 know.  
18 Which is it?  
19 MR. LAVELLE: Object to form.  
20 A. I said I don't know what they  
21 would answer in their deposition or if you  
22 were to ask them.  
23 Q. But it's your belief that they  
24 would testify they knew about it, right?

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1 MR. LAVELLE: Object to form.  
2 Objection; asked and answered.  
3 A. I don't know what they would  
4 testify. I don't know what they would say  
5 they would answer. I don't know what they  
6 would or would not remember.  
7 (Rite Aid - Novack Exhibit 17,  
8 email chain ending October 9, 2013,  
9 Bates No. Rite\_Aid\_OMDL\_0050291 to  
10 Rite\_Aid\_OMDL\_0050306, was marked for  
11 identification, as of this date.)  
12 BY MR. SIMMER:  
13 Q. The court reporter has handed  
14 you what she's marked as Novack  
15 Exhibit 17, which I'll identify for the  
16 record is Rite\_Aid\_OMDL\_0050291 through  
17 '0050306.  
18 Please take a moment to review  
19 that.  
20 A. (Perusing document.)  
21 Okay.  
22 Q. We discussed a moment ago the  
23 right -- that Rite Aid started a project  
24 in 2013 to develop a suspicious order

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1 monitoring system, right?

2 MR. LAVELLE: Objection to the

3 form of the question.

4 A. I'm sorry. Could you repeat the

5 question?

6 Q. You see, when he makes his

7 objections, you lose your train of

8 thought, don't you? I do the same thing.

9 We discussed a moment ago that

10 Rite Aid started a project in 2013 to

11 develop a suspicious order monitoring

12 project, right?

13 MR. LAVELLE: Object to form.

14 A. We had put this together for

15 funding in 2013.

16 Q. But you started a project that

17 was called the Suspicious Order Monitoring

18 Project, right?

19 A. Yes.

20 Q. And you were part of that

21 effort, I think you testified, right?

22 A. Yes.

23 Q. And what's attached to

24 Exhibit 17 is that suspicious order

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1 monitoring proposal or project you were

2 developing with others, right?

3 A. Yes.

4 Q. Who all was involved in

5 preparing this document?

6 A. Myself, Janet Hart, Karyn that's

7 listed on here, I believe Chris Belli was

8 also part of this.

9 Q. So, if I could direct your

10 attention to the first page of this where

11 it says: Chair/sponsor Wilson Lester.

12 What does that mean to be a

13 chair sponsor, and what's his role in

14 this?

15 A. He was the SVP of supply chain.

16 So, this would be his department, or this

17 is his supply chain project.

18 Q. So, for this to get approved, he

19 had to be the sponsor for it, correct?

20 A. We needed a sponsor. We needed

21 a department sponsor.

22 Q. And the business representative

23 is listed here as Janet Hart.

24 What is her role?

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1 A. She's in Government Affairs.

2 Q. But it says "business

3 representative."

4 What does it mean to be a

5 business representative?

6 A. We were part of the entity that

7 was requesting this suspicious order

8 monitoring project, and we were basically

9 representing the business on behalf of

10 this project.

11 Q. You were also listed as a

12 business representative, right?

13 A. Yes.

14 Q. Does it require two business

15 representatives to make a proposal like

16 this?

17 A. The more that you have, the

18 better because you're pulling in expertise

19 from different departments to create

20 something in a document that can go for

21 review. So, if it houses different

22 departments, then you would have the

23 different department representatives

24 present.

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1 Q. It says there's an IS

2 representative.

3 What is IS?

4 A. That's basically our IT

5 department.

6 Q. And that's Karyn Kunzig.

7 She's also listed as being the

8 person who prepared it.

9 Is she the person who prepared

10 this document?

11 A. She would help fill out the

12 forms 'cause, ultimately, she's the one

13 that would have to build the platform.

14 Q. The structure that this is put

15 into, is this a structure that Rite Aid

16 required for all proposals like this?

17 A. For project funding, yes.

18 Q. Okay. So it's a template you're

19 given and say okay, this is the

20 information that you need to provide so

21 that this will be -- go up through review

22 to get approved, right?

23 A. Yes.

24 Q. Anybody else besides the people

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1 listed here that worked on this or  
2 provided input?  
3 A. I don't recall specifically.  
4 Q. What was your specific role in  
5 drafting this document?  
6 A. My role was more in relation to  
7 the metrics and the trending reports  
8 'cause we review those trending reports  
9 and we have different ways that we look at  
10 it currently in our system. So we want to  
11 take that information and be able to  
12 implement it here.  
13 Q. It's correct that you didn't  
14 have a portal like this before, did you?  
15 A. This platform was the new portal  
16 to create -- to house all this  
17 information. So, we had different  
18 processes, but this is going to be a new  
19 application.  
20 Q. So this is new, right?  
21 A. The application itself, yes.  
22 Q. That's what I asked.  
23 It's new, right?  
24 A. The application, yes.

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1 Q. This never went into effect, did  
2 it?  
3 A. No, not --  
4 Q. Why not?  
5 A. Not the time that I was there.  
6 And based off of the timeline, it  
7 coincides with our distribution going to  
8 McKesson. So, we wouldn't have ordering  
9 in our -- in our warehouses anymore.  
10 Q. So, if you had not moved  
11 distribution over to McKesson, that's when  
12 you would have tried to put this portal in  
13 place, right?  
14 MR. LAVELLE: Object to form.  
15 A. I don't know since it did  
16 happen. We had a projected timeline and  
17 that's the information according to the  
18 timeline.  
19 However, McKesson came right in,  
20 so, and that took the rest of the  
21 timeline.  
22 Q. So, the only reason that you  
23 know of that it wasn't put in place is  
24 that the distribution was switched over to

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1 McKesson, right?  
2 A. That I'm aware of, yes.  
3 Q. Turn to page 5, please. So, it  
4 has a description here of suspicious order  
5 review.  
6 Do you see where I am?  
7 A. Yes.  
8 Q. Do you see where it says:  
9 Today blanket thresholds are manually  
10 enforced at 5,000 dosage units per  
11 individual NDC per week per store  
12 regardless of dispensing volume or trends.  
13 This is a labor intensive process with  
14 opportunity for order lines to be missed.  
15 So, am I right that this is  
16 describing the status quo that you were  
17 operating under with your 5,000 unit  
18 threshold, right?  
19 MR. LAVELLE: Object to form.  
20 A. This is the current process that  
21 we have in place at the time, 5,000 units  
22 per NDC.  
23 Q. I think we're saying -- the  
24 answer to my question is yes, that's the

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1 current process you're describing, right?  
2 MR. LAVELLE: Object to form.  
3 A. It's the 5,000 dosage units per  
4 NDC. That's what I'm saying.  
5 Q. So, you do this. I ask a  
6 question and then you change it. So let  
7 me try it again.  
8 You're describing what the  
9 current system is, right?  
10 MR. LAVELLE: Object to form.  
11 A. The current system is 5,000  
12 dosage units. That's what I'm describing.  
13 Q. Okay. Did the opioid products  
14 distributed by Rite Aid come in different  
15 formulations?  
16 A. I'm sorry. Could you repeat the  
17 question?  
18 Q. Did the opioid products  
19 distributed by Rite Aid come in different  
20 formulations?  
21 A. Yes.  
22 Q. For example, you had a combo  
23 products with hydrocodone five-point --  
24 or, 7.5 milligrams and others with



<p style="text-align: right;">Page 358</p> <p>1 hydrocodone 5 milligrams, right?</p> <p>2 A. Yes.</p> <p>3 Q. Did each formulation have a</p> <p>4 different NDC?</p> <p>5 A. Yes.</p> <p>6 Q. So the threshold would be 500 --</p> <p>7 MR. SIMMER: Strike that.</p> <p>8 Q. So, the threshold would be 5,000</p> <p>9 dosage units for hydrocodone 7.5</p> <p>10 milligrams and additional 5,000 dosage</p> <p>11 units for hydrocodone 5 milligrams, right?</p> <p>12 A. For each individual NDC.</p> <p>13 However, there are algorithms in</p> <p>14 place that will not allow them to order up</p> <p>15 to 5,000 dosage units if they have not</p> <p>16 been using them.</p> <p>17 MR. SIMMER: I move to strike</p> <p>18 everything after "for each individual</p> <p>19 NDC" as non-responsive.</p> <p>20 Q. You say here: So order lines</p> <p>21 were missed in the manual process.</p> <p>22 What do you mean by that?</p> <p>23 MR. LAVELLE: Object to form.</p> <p>24 A. So, currently at the DC are it's</p>	<p style="text-align: right;">Page 360</p> <p>1 store truly is dispensing at that volume</p> <p>2 and we have this blanket threshold across</p> <p>3 the board, in order to service the</p> <p>4 remainder of their patients, they would</p> <p>5 place their order through McKesson.</p> <p>6 Q. So I think the answer to my</p> <p>7 question is yes, if they were going above</p> <p>8 their threshold, they had to get it from</p> <p>9 McKesson.</p> <p>10 Right?</p> <p>11 MR. LAVELLE: Object to form.</p> <p>12 A. If they needed more than their</p> <p>13 threshold, then they would order it</p> <p>14 through McKesson as their source.</p> <p>15 Q. I think we're in agreement. The</p> <p>16 answer to my question is yes, if they</p> <p>17 needed it, they would go to McKesson.</p> <p>18 Right?</p> <p>19 MR. LAVELLE: Object to form.</p> <p>20 A. I don't think I'm understanding</p> <p>21 what you're rephrasing.</p> <p>22 Q. It's not a trick question. I</p> <p>23 asked you if they needed more than they</p> <p>24 could get through Rite Aid, they would go</p>
<p style="text-align: right;">Page 359</p> <p>1 manually reviewed by somebody that is</p> <p>2 picking that item. So if the item is over</p> <p>3 that threshold, they would have to</p> <p>4 manually pull it out.</p> <p>5 There is an opportunity for</p> <p>6 human error. That's what we're saying.</p> <p>7 Q. So, is it correct that orders</p> <p>8 over the threshold were shipped?</p> <p>9 A. That's not what I'm saying. I'm</p> <p>10 saying that there's potential for human</p> <p>11 error, and we wanted to minimize that</p> <p>12 potential.</p> <p>13 Q. If they went over the -- it went</p> <p>14 over the threshold, they'd have to get</p> <p>15 that order from McKesson, right?</p> <p>16 MR. LAVELLE: Object to form.</p> <p>17 MS. CHARLES: Form.</p> <p>18 A. Could you repeat that question?</p> <p>19 Q. I'm just reading back to you</p> <p>20 essentially what you say here: In</p> <p>21 addition, stores which truly need this</p> <p>22 quantity must order it from McKesson.</p> <p>23 Right?</p> <p>24 A. So, in that case, it's if the</p>	<p style="text-align: right;">Page 361</p> <p>1 to McKesson.</p> <p>2 Right?</p> <p>3 MR. LAVELLE: Objection; asked</p> <p>4 and answered.</p> <p>5 A. So, in this case, we're talking</p> <p>6 about a store. They truly had a</p> <p>7 dispensing history and they needed it and</p> <p>8 we had these blanket thresholds, they</p> <p>9 would have to order it from McKesson, one</p> <p>10 of the enhancements we were trying to do</p> <p>11 for our locations.</p> <p>12 Q. Just I have to get a clear</p> <p>13 record here because when I ask you a</p> <p>14 yes-or-no question and you don't answer it</p> <p>15 that way, I don't know if you disagree</p> <p>16 with my question.</p> <p>17 So, when I asked if they needed</p> <p>18 more than they could get through Rite Aid,</p> <p>19 they would go to McKesson, is the answer</p> <p>20 "yes" or "no" to that question?</p> <p>21 MR. LAVELLE: Object to form.</p> <p>22 Objection; asked and answered.</p> <p>23 MR. SIMMER: It is not answered.</p> <p>24 She didn't answer the question.</p>

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1 MR. LAVELLE: Counsel, you don't  
2 get to both ask the questions and  
3 answer them.  
4 MR. SIMMER: I need to get a  
5 clear record here.  
6 MR. LAVELLE: You already do  
7 have a clear record. You're really  
8 making it difficult here because you  
9 ask every question five times and  
10 you're berating the witness.  
11 Let's move on.  
12 BY MR. SIMMER:  
13 Q. So, is the answer to my question  
14 "yes" or "no"?  
15 So, if they could -- they're up  
16 against what they could get from Rite Aid,  
17 they would then go to McKesson, right, if  
18 they needed more?  
19 A. If they truly needed more, based  
20 off of the history in dispensing for their  
21 patients, then they would order from  
22 McKesson.  
23 Q. So you are in agreement with my  
24 question then if they -- subject to the

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1 qualification that it has to be truly  
2 needed more. Otherwise you agree with me,  
3 right?  
4 MR. LAVELLE: Object to form.  
5 Objection; asked and answered.  
6 A. I don't understand your question  
7 at this point.  
8 Q. What don't you understand?  
9 A. I'm stating if the store needed  
10 more than their threshold, because their  
11 business already dictates that they do,  
12 then they would order from McKesson, which  
13 is something that that location has to do.  
14 Q. Is it true that Rite Aid  
15 pharmacies only make legitimate orders?  
16 A. Could you repeat that question?  
17 Q. Is it true that Rite Aid  
18 pharmacies only make legitimate orders?  
19 A. Can you -- I don't understand  
20 what you mean by legitimate orders.  
21 Q. I'm just trying to clarify when  
22 you say if they truly need something.  
23 Don't they always only order  
24 when they truly need something?

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1 A. So, they truly need it based off  
2 of their dispensing. We're calling out  
3 that we can't supply more because of their  
4 thresholds that are already in place. So,  
5 they have been doing this and we want to  
6 see if we can make it a little bit easier  
7 for our stores, more controls in place so  
8 that we can get them to supply through one  
9 distribution, instead of at times where we  
10 can't get the supply in time for our  
11 patients.  
12 Q. Okay. I'm just establishing a  
13 real simple point.  
14 You say that they -- if they ran  
15 out of what they could get from Rite Aid  
16 and they truly needed it, they could go to  
17 McKesson.  
18 Right?  
19 A. Yes.  
20 Q. Isn't every instance when a  
21 Rite Aid pharmacy makes an order like that  
22 they do truly need it?  
23 A. So, I can't tell you what is  
24 happening in a store and how those orders

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1 are placed, whether it's manual or not.  
2 So, I can't answer that question.  
3 Q. So, is it true then that there  
4 are instances when they may not truly need  
5 it, but yet they did make an order?  
6 MR. LAVELLE: Object to form.  
7 A. I don't -- I don't understand  
8 the question.  
9 Q. I'm trying to understand why you  
10 put the qualification of "truly" in there.  
11 Is there -- were there instances  
12 where you believed that pharmacies were  
13 ordering from McKesson and they didn't  
14 truly need that additional quantity?  
15 MR. LAVELLE: Object to form.  
16 A. I believe that there are times  
17 where mistakes happen. I believe that  
18 there are times where they may figure  
19 something or they thought that something  
20 was out. I believe there are different  
21 times where an order may have been placed  
22 that was not necessarily for that  
23 business, per se, and that's why we've got  
24 these different checks in place.

<p style="text-align: right;">Page 366</p> <p>1 Q. So, when you say the  2 qualifications "truly," you simply think  3 that's a mistake?  4 A. No. I'm saying that stores that  5 currently do supply higher amounts than  6 what our thresholds call for for an  7 individual NDC, they are currently getting  8 supply in two different places. So, we  9 want to be able to supply in one place for  10 that store that is truly utilizing this  11 medication for their patients. So we can  12 reduce and minimize the gaps in service  13 and also be able to have more visibility  14 that can control the ordering system, the  15 replenishment system, the algorithms.  16 Q. Again you put the qualification  17 of "truly utilizing" in your answer.  18 Were there instances where they  19 didn't truly utilize it correctly?  20 MR. LAVELLE: Object to form.  21 Objection; asked and answered.  22 A. I don't recall. I don't know if  23 there were any orders. We're tell --  24 we're stating here that there are stores</p>	<p style="text-align: right;">Page 368</p> <p>1 improve our processes and instead of a day  2 later, we can catch it instantaneously,  3 for instance.  4 Q. You recall the documents we  5 looked at earlier about Dr. Harper? You  6 remember those -- those exhibits we looked  7 at earlier about Dr. Harper? Remember how  8 he got sentenced to ten years?  9 A. Yes.  10 MR. LAVELLE: Object to form.  11 BY MR. SIMMER:  12 Q. Was he placing truly needed  13 orders from Rite Aid stores?  14 MR. LAVELLE: Object to form.  15 A. He's not placing the orders  16 through Rite Aid stores.  17 Q. But the one -- the ordering  18 that's being reflected in the threshold  19 increase that you requested from McKesson,  20 that was your request, right?  21 A. That was my request, yes.  22 Q. Was that truly needed for that  23 doctor who eventually got ten years in  24 prison?</p>
<p style="text-align: right;">Page 367</p> <p>1 that are currently being supplied in two  2 different locations and they are utilizing  3 it and it is for patients. So we want to  4 make sure that we have a system in place  5 where we can monitor these stores and  6 adjust their thresholds outside of just  7 that 5,000 across the board.  8 Q. And you needed that system in  9 place because you thought there were  10 concerns that they weren't truly using  11 the -- the ordering from McKesson  12 appropriately.  13 Isn't that right?  14 MR. LAVELLE: Object to form.  15 MS. CHARLES: Object to form.  16 A. We have a system in place  17 already. We wanted a place where it would  18 indicate that anomaly where we can go and  19 produce the records quickly. We can go in  20 and look at this information quickly  21 rather than waiting for an analyst to  22 review it or a report to pop up later on.  23 We're looking for different ways to make  24 everything more efficient so that we can</p>	<p style="text-align: right;">Page 369</p> <p>1 A. That was --  2 MR. LAVELLE: Object to form.  3 MS. CHARLES: Object to form.  4 A. That was identified as needed  5 for that store. That was a prescriber  6 that was prescribing out of that location.  7 However, for that store at that  8 time, we had deemed that it was needed for  9 an increase for that location.  10 MR. SIMMER: Move to strike  11 non-responsive.  12 Q. My question was that volume that  13 you requested the increase from McKesson,  14 was that truly needed?  15 MR. LAVELLE: Object to form.  16 MS. CHARLES: Object to form.  17 BY MR. SIMMER:  18 Q. You requested a 15 percent  19 increase, and the reason for it was  20 because of Dr. Harper. It was right in  21 that exhibit.  22 Was that truly needed for Dr.  23 Harper's increased utilization?  24 MR. LAVELLE: Object to form.</p>

<p style="text-align: right;">Page 370</p> <p>1 MS. CHARLES: Object to form.  2 A. That increase was needed for  3 that location. The information was that  4 one of the prescribers is Dr. Harper. So,  5 we increased the threshold for that  6 location for that store so that they can  7 service the patients that are coming  8 through.  9 Q. Ma'am, you're the one that  10 introduced this concept of something being  11 truly needed.  12 In the example we went through  13 earlier today in which numerous patients  14 died of overdoses, was that volume  15 increase that you requested truly needed,  16 yes or no?  17 MR. LAVELLE: Object to form.  18 Objection; asked and answered.  19 A. So, that increase was needed for  20 that location and the patients that they  21 were servicing. Ultimately, those  22 prescriptions were dispensed by a  23 pharmacist for a patient that they deemed  24 had medical need.</p>	<p style="text-align: right;">Page 372</p> <p>1 location for that store, based off of that  2 time and the information that was  3 provided, it was deemed that the patients  4 needed that medication. So we increased  5 that threshold by 15 percent.  6 Q. So, in your answer to the  7 question you use the passive voice. You  8 say it was deemed that the patients needed  9 that medication.  10 You were the person who made the  11 request.  12 Wasn't it you that deemed that  13 those patients needed that medication and  14 that's why you passed on that 15 percent  15 increase request, because you felt that  16 they -- those patients truly needed that  17 medication?  18 MR. LAVELLE: Object to form.  19 A. I felt that the store needed  20 that medication in order to service the  21 patients that they were seeing.  22 Ultimately, the patient that received that  23 prescription was determined to have  24 medical need based off of the pharmacists</p>
<p style="text-align: right;">Page 371</p> <p>1 Q. So you're saying that there was  2 truly needed for that particular pharmacy  3 and those patients, right?  4 MR. LAVELLE: Object to form.  5 A. In that situation where we  6 increase the threshold for that store,  7 that store determined that they needed it  8 for those patients. So, I don't know if  9 it was that doctor's patients or other  10 patients, but it was patients that had a  11 medical need.  12 Q. And it was truly needed, right?  13 MR. LAVELLE: Object to form.  14 BY MR. SIMMER:  15 Q. I'm using the terminology that  16 you established in this protocol, or the  17 project that you came up with that you  18 wanted to be sure that it was truly  19 needed, and I'm trying to use the example  20 of the threshold increase that you made.  21 Was that truly needed, your  22 term?  23 MR. LAVELLE: Object to form.  24 A. So, in that situation in that</p>	<p style="text-align: right;">Page 373</p> <p>1 that are dispensing, that's taking care of  2 that patient face-to-face and improving  3 their outcomes.  4 Q. Look at page 6 of the project  5 document that you and your colleague  6 created.  7 You see where it says "Trending  8 Reports"?  9 A. Yes.  10 Q. The first sentence you say: In  11 addition to monitoring orders daily, the  12 need exists to monitor ordering patterns  13 of a store over time.  14 Do you see that?  15 A. Yes.  16 Q. Is it a correct reading of what  17 you're saying there that you were not  18 actually monitoring order patterns of a  19 store over time?  20 A. No, that's not what we're  21 saying.  22 Q. You said the need exists, right?  23 A. The need does exist for us to do  24 that and that's why we want to create more</p>

<p style="text-align: right;">Page 374</p> <p>1 robust trending reports that are easily  2 accessible. However, we have these  3 trending reports already on our Naviscript  4 dashboards.  5 Q. So, the trend report for the  6 store for Dr. Harper that we looked at, if  7 you'd been using that kind of order  8 monitoring pattern, you would have seen  9 that kind of trend that was going on in  10 that store, wouldn't you?  11 MR. LAVELLE: Object to form.  12 A. I can't guess to what we would  13 have seen on KPIs that we're trying to  14 house in a different place, and I don't  15 know what type of volume we were doing in  16 that location that would have caused any  17 flags or not on these KPIs.  18 Q. Did you ever look at Naviscript  19 to determine suspicious orders?  20 A. Yes.  21 Q. How often?  22 A. We have analysts that do order  23 reviews on something we call a trifecta  24 every quarter.</p>	<p style="text-align: right;">Page 376</p> <p>1 review and we review all of the data for  2 the past quarter. We're looking for  3 something that can be even streamlined for  4 more efficiency so that if something was  5 to happen we can catch the trend even  6 quickly because it's a lot of data that  7 we're reviewing.  8 Q. I guess I'm asking a slightly  9 different question.  10 You were going to do a -- the  11 proposal you were making was going to  12 monitor orders daily and then also monitor  13 patterns over time.  14 You were going to do simply a  15 quarterly monitoring of that trend; is  16 that right? For a particular -- is that  17 what you're talking about? You're going  18 to continue the same kind of quarterly  19 monitoring with this project that you were  20 undertaking?  21 A. No.  22 MR. LAVELLE: Object to form.  23 A. So, this project would give us  24 real-time alerts. So any time anything</p>
<p style="text-align: right;">Page 375</p> <p>1 Q. Okay. I'm not sure I  2 understand.  3 What do you call this? A  4 trifecta?  5 A. Yeah. We look at multiple  6 things that we would utilize to determine  7 if there was any suspicious activity that  8 we wanted to be aware of and research.  9 So, we can look at trends where a store is  10 ordering manually overriding their  11 replenishment discussions, also ordering  12 from an outside vendor, and if there are  13 any on-hand adjustments that would  14 indicate that we're trying to get some  15 more medications in the stores that we  16 want to be suspicious about.  17 Q. So, the proposal you made here,  18 were you suggesting that there needed to  19 be that kind of trend analysis every four  20 months like you're talking about was  21 already being done when you're looking at  22 Navistar [sic]?  23 MR. LAVELLE: Object to form.  24 A. So, Naviscript is a quarterly</p>	<p style="text-align: right;">Page 377</p> <p>1 over here -- two different phases. So,  2 one part is if there were anything in  3 there that would flag for a corporate  4 review, then that alert would happen right  5 away.  6 If something was -- didn't seem  7 like an anomaly, but over time it adds up  8 to be something that we should be aware  9 of, then it would flag us to look quickly  10 too.  11 So, this was continuous, being  12 more robust in what we already currently  13 had.  14 Q. Could you turn to page 7?  15 Before I go there, you said that  16 you were doing quarterly reviews through  17 Naviscript, but the orders were being made  18 daily, right?  19 A. Yes. The orders are made -- the  20 orders for the warehouses were once a  21 week, if they were a weekly order store.  22 Q. Turn to page 7.  23 You have a list of assumptions  24 here.</p>



<p style="text-align: right;">Page 378</p> <p>1 A. Yes.</p> <p>2 Q. And one of the assumptions, the</p> <p>3 third bullet is that: McKesson's systems</p> <p>4 contain sufficient controls to manage the</p> <p>5 DSD purchases.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And what is DSD?</p> <p>9 A. Vendor purchases.</p> <p>10 Q. So, what you're assuming is that</p> <p>11 McKesson had a system in place to manage</p> <p>12 that, right?</p> <p>13 A. We were assuming that we weren't</p> <p>14 making any changes to an external system</p> <p>15 that we didn't own.</p> <p>16 Q. So you're assuming that their</p> <p>17 controls are sufficient, right?</p> <p>18 A. We're assuming that their</p> <p>19 controls are sufficient from their</p> <p>20 monitoring perspective and we weren't</p> <p>21 going to make any changes.</p> <p>22 Q. What did you mean by</p> <p>23 "sufficient"?</p> <p>24 A. That they have their way of</p>	<p style="text-align: right;">Page 380</p> <p>1 McKesson is operating at a level where</p> <p>2 they had, what you said, sufficient</p> <p>3 controls, right?</p> <p>4 MR. LAVELLE: Object to form.</p> <p>5 Objection; asked and answered.</p> <p>6 A. This is assuming Rite Aid had --</p> <p>7 Walgreen -- sorry. McKesson has their own</p> <p>8 systems in place.</p> <p>9 Q. And, when you say "sufficient,"</p> <p>10 are you also meaning that they had --</p> <p>11 they're compliant, right?</p> <p>12 MR. LAVELLE: Objection to the</p> <p>13 form. Objection; asked and answered.</p> <p>14 A. I cannot speak to their</p> <p>15 compliance. I'm just -- this is an</p> <p>16 assumption that we're not doing anything</p> <p>17 to change McKesson's systems or McKesson's</p> <p>18 processes. This is for our own processes,</p> <p>19 our own monitoring. We monitor our vendor</p> <p>20 orders from a replenishment perspective</p> <p>21 and what comes in and what goes out, but</p> <p>22 we were not assuming that we were going to</p> <p>23 change anything in relation to a vendor</p> <p>24 'cause we can't.</p>
<p style="text-align: right;">Page 379</p> <p>1 monitoring their orders.</p> <p>2 Q. Nothing more than that, just</p> <p>3 that they had their own way of doing</p> <p>4 things?</p> <p>5 A. I don't know what they have or</p> <p>6 they don't, but in order to be in</p> <p>7 compliance, we would assume that they had</p> <p>8 something similar.</p> <p>9 Q. So, wouldn't a normal</p> <p>10 utilization of the word "sufficient" also</p> <p>11 mean that it's compliant, for example?</p> <p>12 MR. LAVELLE: Object to form.</p> <p>13 A. I can't speak to whether their</p> <p>14 controls were compliant or not. I --</p> <p>15 Q. But you wrote this assumption,</p> <p>16 right?</p> <p>17 A. This is for anything that we</p> <p>18 provide in our corporation to make sure</p> <p>19 that we were in compliance and we were</p> <p>20 operating within controls.</p> <p>21 MR. SIMMER: Move to strike</p> <p>22 non-responsive.</p> <p>23 Q. My question is you wrote this</p> <p>24 assumption, and this project assumes that</p>	<p style="text-align: right;">Page 381</p> <p>1 Q. That wasn't my question.</p> <p>2 So, if it were so that</p> <p>3 McKesson -- you knew that McKesson had a</p> <p>4 out-of-control system and was not in</p> <p>5 compliance with DEA regulations. You</p> <p>6 would --</p> <p>7 MS. CHARLES: Object to form.</p> <p>8 MR. SIMMER: You need to let me</p> <p>9 finish my question. So why don't you</p> <p>10 wait.</p> <p>11 BY MR. SIMMER:</p> <p>12 Q. In that situation, you wouldn't</p> <p>13 be making this recommendation because your</p> <p>14 assumption was that they had a sufficient</p> <p>15 control in place, right?</p> <p>16 MR. LAVELLE: Object to form.</p> <p>17 A. I don't understand the question.</p> <p>18 Could you repeat it?</p> <p>19 Q. Well, I'm just -- you used the</p> <p>20 word "sufficient controls." I don't --</p> <p>21 I'm not saying you're doing -- trying to</p> <p>22 change them at all.</p> <p>23 Base assumption making this</p> <p>24 proposal was that they have sufficient</p>

Page 382	Page 384
<p>1 in -- controls in place to manage the 2 system, right? 3 MR. LAVELLE: Object to form. 4 Objection; asked and answered 5 repeatedly. 6 A. This assumes that they have 7 sufficient controls. I cannot assume what 8 their compliance is or how they do it on 9 their end. 10 Q. But that's exactly what you did. 11 I'm trying to -- when you answer these 12 questions and -- all right. 13 MR. SIMMER: Strike that. 14 Q. You just said "I cannot assume 15 what their control -- or their compliance 16 is or how they do it on their end." 17 But that's exactly what you did 18 here in bullet number 3. You say: 19 McKesson's systems contain sufficient 20 controls to manage the DSD purchases. 21 That's an assumption, right? 22 MR. LAVELLE: Object to form. 23 A. So, the assumption is that they 24 have sufficient controls to control their</p>	<p>1 Or, what are you looking for when you fill 2 in something like this benefit? 3 A. It's any type of benefit. So, 4 in this particular one, we're not going to 5 make any money out of it, but we want to 6 make sure that we avoid any fines. We 7 want to make sure that we are in 8 compliance with our regulations that we 9 operate under. 10 Q. So, it says under "Benefit": 11 Avoid DEA fines. 12 Right? 13 A. Yes. 14 Q. So, what your team came up with 15 as a benefit that you saw by putting this 16 project in place was to avoid being fined 17 by the DEA, right? 18 A. It's to operate within 19 compliance. 20 Q. That's not what you wrote. 21 Your words, not the rest of 22 that. You say "avoid DEA fines," right? 23 MR. LAVELLE: Object to form. 24 A. If we were not in compliance,</p>
Page 383	Page 385
<p>1 orders on their end and their own 2 compliance. 3 This is in relation to our 4 supply chain and whether we are compliant 5 with our suspicious order monitoring 6 program and what we're doing in relation 7 to orders that come in and out of our 8 stores and supplying to those locations. 9 So, this is really for our project and 10 what we do on our end. 11 The assumptions there is not to 12 assume -- I cannot speak to what their 13 compliance is. 14 Q. Let's move on -- 15 MR. LAVELLE: Thank God. 16 Q. -- and go to page 10, please. 17 So, the template asked you to 18 put benefit estimate. 19 As your understanding, what is 20 meant by "benefit"? 21 A. So, in our understanding is why 22 do we want to do this? How is this going 23 to help us? 24 Q. Is this strictly monetarily?</p>	<p>1 then we ultimately would be fined by the 2 DEA. So, the ultimate goal here is to 3 make sure that we are compliant in the 4 operations that we're running. 5 Q. So why didn't you write that 6 down? 7 MR. LAVELLE: Object to form. 8 A. It's just a term that we decided 9 to use when we were there. One implies 10 the other. 11 And, again, we talk about these 12 project initiations and we discuss it in 13 more context when we're presenting this. 14 Q. So, rather than write down that 15 the ultimate goal was to be more 16 compliant, you chose instead to say "avoid 17 DEA fines." 18 Right? 19 A. I didn't personally draft this 20 estimate, or these words that were placed 21 in here. But the words that are printed 22 here are, yes, to avoid DEA fines. 23 However, the context is if we 24 are in compliance, we won't get fined and</p>

<p style="text-align: right;">Page 386</p> <p>1 that's why we're going to avoid it.  2 Q. So, look over under  3 "Justification."  4 Did you write that?  5 A. No.  6 Q. Somebody else wrote that?  7 A. Yes.  8 Q. Who?  9 A. Janet.  10 Q. So, the ultimate project as it  11 was being written up, you had the  12 opportunity to review that, right?  13 A. Correct.  14 Q. And if you didn't agree with it,  15 you would have changed it, right?  16 A. You asked for a specific word  17 choice. So I couldn't tell you why she  18 used that word choice, but I can tell you  19 the context behind ultimately what that  20 meant.  21 Q. Okay. But you were one of the  22 reviewers, and if you didn't agree with  23 the word choice, you would have changed  24 it, right?</p>	<p style="text-align: right;">Page 388</p> <p>1 substance distributors must have a  2 protocol to identify and report suspicious  3 orders based on individual pharmacy volume  4 not generic limits for all registrants.  5 Do you see that?  6 A. Yes.  7 Q. Now, this generic limits for all  8 registrants, that's, in fact, the protocol  9 that Rite Aid had been using with its  10 arbitrary 5,000 unit limitation, right?  11 MR. LAVELLE: Object to form.  12 A. So, it is my understanding that  13 the DEA does not state in their Code of  14 Federal Regulations that they do not have  15 generic limits for registrants. It's  16 language about identifying and reporting  17 suspicious orders. So, we were trying to  18 get ahead of the trend and make sure that  19 we had a way of looking at individual  20 stores, individual thresholds so that we  21 can be ahead of what the trends are out  22 there, knowing that this media has started  23 to strike about the different ways that  24 other organizations were getting fined,</p>
<p style="text-align: right;">Page 387</p> <p>1 A. Yes.  2 Q. We saw instances where you did  3 make changes, right?  4 A. Yes.  5 Q. Okay. So, there under the  6 justification, it lists a series of things  7 that were potential justifications. The  8 first one: Recent DEA fines for  9 controlled substance distributors.  10 Do you see that?  11 A. Yes.  12 Q. And then it lists Walgreens  13 \$80,000,000.  14 Do you see that?  15 A. Yes.  16 Q. And then McKesson \$13,000,000.  17 Do you see that?  18 A. Yes.  19 Q. And then it talks about a  20 McDowell County, West Virginia lawsuit.  21 Do you see that?  22 A. Yes.  23 Q. And then also it says: The DEA  24 has stated numerous times controlled</p>	<p style="text-align: right;">Page 389</p> <p>1 and it's a great time to say are we doing  2 everything we can to make sure that we are  3 always one step ahead.  4 MR. SIMMER: Move to strike  5 non-responsive. That was not my  6 question.  7 Q. I said that Rite Aid had in  8 place a 5,000 unit threshold for every  9 pharmacy, right?  10 A. No. We have a 5,000 threshold  11 for every NDC.  12 Q. That's what I mean.  13 And that is applied across the  14 board to every pharmacy that Rite Aid  15 owned, right?  16 A. Yes.  17 Q. Isn't that the very kind of  18 generic limit that this -- this  19 description here is saying that the DEA  20 says is not appropriate?  21 A. That's what we are looking at.  22 That's why we did mention in our  23 description we do have blanket generic, or  24 we have blanket NDCs with 5,000 threshold,</p>

<p style="text-align: right;">Page 390</p> <p>1 and we want to be able to manipulate that                  2 so that it is closer to what the stores                  3 are doing.                  4 Q. And you just testified a moment                  5 ago that what your goal was to get ahead                  6 of the trend.                  7 Is that right?                  8 A. Our goal is to make sure that                  9 we're operating optimally. As we hear of                  10 different things, we want to learn from                  11 them so that we can be better. So, we                  12 have controls that meet the regulations.                  13 Do we have controls that can protect us                  14 even further, protect our patients even                  15 further, our stores, our teams?                  16 Q. So, the McKesson fine was in                  17 2008 or so, right?                  18 A. I don't recall which fine it's                  19 referring to.                  20 Q. Well, how is it ahead of --                  21 getting ahead of trend in 2013, five years                  22 later?                  23 MR. LAVELLE: Object to form.                  24 A. So, these are different paces.</p>	<p style="text-align: right;">Page 392</p> <p>1 A. No. Rite Aid is taking the                  2 information that we are receiving, looking                  3 at all of the different things that are                  4 available and taking a look at what we can                  5 learn from them so that we can improve,                  6 further improve our processes so that we                  7 can do better at what we currently do.                  8 We are in compliance with what                  9 the DEA tells us we need to do in relation                  10 to identifying and reporting suspicious                  11 orders. So, can we move it a step                  12 further? And they talk about the things                  13 that they've learned in these different                  14 news articles that we've read in the media                  15 about how they got into the predicament                  16 that they're in and how do we adjust to                  17 make sure that we're not in the same type                  18 of situation. Do we have those                  19 capabilities to do so?                  20 So, we were operating in                  21 compliance, but as trends change, as                  22 things change, we wanted to improve our                  23 processes to make sure that we were in the                  24 same place. And this was new, as we were</p>
<p style="text-align: right;">Page 391</p> <p>1 So if that was in 2008, that \$13,000,000,                  2 we also have a new one that was just                  3 recent in the Walgreens settlement. So,                  4 this context is also something that's                  5 different. We know that they've started                  6 to talk about these limits and we want to                  7 make sure, based off of this information                  8 that's coming out and what other retailers                  9 are facing, do we have controls to make                  10 sure that we can get ahead of it. So, in                  11 2013, I don't know if this statement was                  12 valid.                  13 Q. I guess that's my question.                  14 You're saying you're getting                  15 ahead of trend. It looks like you're                  16 behind the trend here. It lists all these                  17 events that you're talking about have                  18 already occurred and the fact that the DEA                  19 said numerous times that you have to have                  20 more than a generic limit.                  21 Isn't, in fact, the case that                  22 Rite Aid is behind the trend, not ahead of                  23 the trend?                  24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 393</p> <p>1 discovering it, based off of these fines                  2 that were happening.                  3 Q. And the only reason to make this                  4 change is because of a trend, right?                  5 A. We're always looking at                  6 internally what we can do to improve our                  7 processes, so.                  8 Q. Because of the trend. That's                  9 what you keep saying. It is because of a                  10 trend, of things that you saw that were                  11 occurring.                  12 Right?                  13 A. That's one of the reasons.                  14 Q. Not because it was the right                  15 thing to do, but simply because it was the                  16 result of the DEA enforcement and some                  17 lawsuits, is what it looks like.                  18 MR. LAVELLE: Object to form.                  19 A. A lot of times we don't know                  20 what we don't know. So, as this comes up                  21 in the media and we realize that there's                  22 some other things that we can look at to                  23 improve, then we go back and we say do we                  24 have something like this in place, can we</p>

<p style="text-align: right;">Page 394</p> <p>1 make it more robust, is there something 2 that we can develop. So, it's always easy 3 to go back and say let's do better and not 4 continue to do just what we're doing. 5 Q. I think you meant the opposite. 6 It's easy to say that, but it's difficult 7 to do it. 8 Is that what you mean? 9 MR. LAVELLE: Object to form. 10 A. I'm not sure what you're 11 referring to. 12 Q. Well, I'll just read back your 13 response here. I think you said it wrong. 14 I'll give you a chance to fix this. 15 You say: It's always easy to go 16 back and say let's do better and not 17 continue to do just what we're doing. 18 I think you meant the opposite 19 of that. It's more difficult to go and 20 say let's do better rather than keep doing 21 the same thing you're doing. 22 Don't you mean to say that it's 23 easy to keep doing the same thing? 24 MR. LAVELLE: Object to form.</p>	<p style="text-align: right;">Page 396</p> <p>1 developing a program where we can 2 determine this, it's a lot of massive data 3 and it's a lot of manpower. How can we 4 make it efficient enough where we can do 5 this quickly? 6 Q. The proposal you were making, 7 was there going to be some kind of effort 8 to monitor indictments like Dr. Harper's 9 to make sure that wouldn't happen again? 10 MR. LAVELLE: Object to form. 11 A. Our process is to monitor any 12 type of suspicious ordering that would 13 relate to theft or diversion in our 14 locations. So, I don't know what would 15 come of it. I don't know if any further 16 indictments would happen or that we would 17 have caught it. I don't know what we 18 don't know. 19 Q. I don't see anywhere in here an 20 effort in this project that you were 21 outlining in 2013, an effort to identify 22 those situations that were clearly 23 criminal where people were dying. 24 Why wouldn't that be part of</p>
<p style="text-align: right;">Page 395</p> <p>1 BY MR. SIMMER: 2 Q. But the difficult task is to 3 do -- to change the behavior and do the 4 right thing? 5 A. You know, the -- 6 MR. LAVELLE: Object to form. 7 A. The easiest thing is to go and 8 look at what we currently have, right. 9 So, it's a process. It's hindsight is 10 always 20/20. 11 So, when we have something like 12 this happen, let's take it and let's go 13 back and look and let's see if there's 14 something that we need to do or if there's 15 something that we can improve on 16 processes. 17 So, this was our way of looking 18 at everything that's happening, all of the 19 different reasons why we should review our 20 processes, and let's combine that back and 21 are we doing everything we can. We have 22 identified that, you know what, we could 23 do better with these order limits and this 24 is what we're trying to do. We're</p>	<p style="text-align: right;">Page 397</p> <p>1 what you would do as part of the project 2 you were trying to outline? 3 MR. LAVELLE: Object to form. 4 A. It's fully part of the project 5 that we're trying to outline. 6 So, we're looking at the 7 indictments. They're talking about the 8 different increases in amounts that were 9 coming out of the stores, the increases of 10 supply that was going into locations that 11 went unknown. So we're developing 12 different KPIs that would limit the orders 13 so that we can't suddenly spike in 14 situations like this. We're looking at 15 different ways where we can flag quickly 16 any order adjustments or any on-hand 17 adjustments or anything that would 18 indicate that we're funneling in all of 19 these prescriptions and there's potential 20 diversion going on. 21 So, we're looking for an easier 22 way to identify that outside of the review 23 that we're already doing. So, absolutely 24 it's in these documents right here. It's</p>



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<p>1 the crux of what we're trying to do.</p> <p>2 Q. You're not just doing -- trying</p> <p>3 to find a more -- an easier way to do</p> <p>4 that. You want a more effective way,</p> <p>5 right?</p> <p>6 MR. LAVELLE: Object to form.</p> <p>7 A. We're looking for a more</p> <p>8 efficient way.</p> <p>9 Q. So, you don't care whether it's</p> <p>10 effective. You just want it to be more</p> <p>11 efficient, right?</p> <p>12 MR. LAVELLE: Object to form.</p> <p>13 A. We expect that it will be</p> <p>14 efficient and effective. So, we're</p> <p>15 looking for something that we don't know.</p> <p>16 We're looking for any type of anomaly that</p> <p>17 would lead us to believe that we can catch</p> <p>18 something very quickly.</p> <p>19 Q. So, had you already been</p> <p>20 monitoring indictments as part of the</p> <p>21 routine work that your folks were doing in</p> <p>22 monitoring suspicious orders?</p> <p>23 A. So, I or my department was not</p> <p>24 monitoring indictments. This information</p>	<p>1 A. I think I was confused on your</p> <p>2 initial question.</p> <p>3 So, we weren't the ones that</p> <p>4 were scouring the Internet to see who was</p> <p>5 getting indicted or where that information</p> <p>6 was or what news article was coming</p> <p>7 through. As that information is received</p> <p>8 through one channel of our corporation, if</p> <p>9 Janet had sent it over or anybody, any</p> <p>10 party was to send over something about a</p> <p>11 doctor being indicted, we would look at</p> <p>12 it, but myself or my department, I was not</p> <p>13 online looking at this on a daily basis,</p> <p>14 or I didn't -- it wasn't something that we</p> <p>15 did. When we got the information, we</p> <p>16 would do something with it.</p> <p>17 MR. SIMMER: Go off the record.</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 now 5:55 p.m.</p> <p>20 We're going off the record.</p> <p>21 (Recess taken.)</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 now 6:04 p.m.</p> <p>24 We are back on the record.</p>
Page 399	Page 401
<p>1 usually happens through the Government</p> <p>2 Affairs chain, and then they share it with</p> <p>3 us.</p> <p>4 Q. Yet you were the person that was</p> <p>5 to sign off on all threshold increases</p> <p>6 that went -- requests that went to</p> <p>7 McKesson, right?</p> <p>8 A. I signed off on all threshold</p> <p>9 increases. The indictments as they</p> <p>10 happen, we reviewed the data that was</p> <p>11 coming up with that indictment. We</p> <p>12 wouldn't continue to increase thresholds</p> <p>13 in any stores that had a doctor that was</p> <p>14 being indicted.</p> <p>15 Q. You just said something</p> <p>16 absolutely contradictory within two</p> <p>17 questions.</p> <p>18 You answer "So I or my</p> <p>19 department was not monitoring</p> <p>20 indictments." And now you just said "I</p> <p>21 did monitor the indictments as they</p> <p>22 happened."</p> <p>23 Which is it?</p> <p>24 MR. LAVELLE: Object to form.</p>	<p>1 MR. SIMMER: No further</p> <p>2 questions.</p> <p>3 I did want to get one thing on</p> <p>4 the record. We need to talk about</p> <p>5 swapping in the exhibits so they have</p> <p>6 the Bates numbers, and we're going to</p> <p>7 make sure we get that done. So I</p> <p>8 guess we'll work with the court</p> <p>9 reporter. Unless there's any</p> <p>10 questions or any things you want to</p> <p>11 say on the record about that, that's</p> <p>12 what we're going to do over the next</p> <p>13 couple days.</p> <p>14 MR. LAVELLE: We have no</p> <p>15 questions for the witness.</p> <p>16 The witness reserves the right</p> <p>17 to read and sign.</p> <p>18 I would like to put on the</p> <p>19 record that we are going to need to be</p> <p>20 involved in the process of confirming</p> <p>21 that all the documents that are going</p> <p>22 to be attached to this transcript are,</p> <p>23 in fact, exact copies of what was used</p> <p>24 during the testimony today. We have</p>

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1 copies of what was provided to us by  
 2 counsel, and we will be included in  
 3 whatever communications there are  
 4 between plaintiff's counsel and the  
 5 court reporter to make sure we have a  
 6 record of the complete documents,  
 7 including Bates numbers.  
 8 MS. CHARLES: McKesson we would  
 9 appreciate being involved in that as  
 10 well, as well as for our confidential  
 11 stamping of the documents.  
 12 MR. SIMMER: Of course.  
 13 MR. LAVELLE: We agree with  
 14 that.  
 15 THE VIDEOGRAPHER: The time is  
 16 now 6:05 p.m.  
 17 This concludes today's  
 18 deposition. We are going off the  
 19 record.  
 20 (Deposition adjourned at  
 21 approximately 6:05 p.m.)  
 22  
 23  
 24

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1 A C K N O W L E D G M E N T  
 2  
 3 STATE OF )  
 4 :ss  
 5 COUNTY OF )  
 6  
 7 I, SOPHIA NOVACK, hereby certify  
 8 that I have read the transcript of my  
 9 testimony taken under oath in my  
 10 deposition of January 9, 2019; that the  
 11 transcript is a true and complete record  
 12 of my testimony, and that the answers on  
 13 the record as given by me are true and  
 14 correct.  
 15  
 16  
 17  
 18  
 19 Signed and subscribed to before me this  
 20 \_\_\_\_\_ day of \_\_\_\_\_, 2019.  
 21  
 22  
 23 Notary Public, State of  
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1 C E R T I F I C A T E  
 2 STATE OF NEW YORK  
 3 COUNTY OF NEW YORK  
 4  
 5 I, Marie Foley, RMR, CRR, a  
 6 Certified Realtime Reporter and Notary  
 7 Public within and for the State of New  
 8 York, do hereby certify:  
 9 THAT SOPHIA NOVACK, the witness  
 10 whose deposition is hereinbefore set  
 11 forth, was duly sworn by me and that such  
 12 deposition is a true record of the  
 13 testimony given by the witness.  
 14 I further certify that I am not  
 15 related to any of the parties to this  
 16 action by blood or marriage, and that I am  
 17 in no way interested in the outcome of  
 18 this matter.  
 19 IN WITNESS WHEREOF, I have  
 20 hereunto set my hand this 11th day of  
 21 January, 2019.  
 22  
 23  
 24

1	LAWYER'S NOTES		
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